



STATE BAR OF MICHIGAN

NEGLIGENCE LAW SECTION

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November 1, 2013

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State of Michigan
House of Representatives
Committee on Government Operations
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(586) 979-6500

Treasurer

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Re: SB 652

Dear Committee Members:

Council

Thomas R. Behm
Grand Rapids

Mark J. Bernstein
Farmington Hills

James R. Bradley
Lansing

Megan K. Cavanaugh
Detroit

Chad D. Engelhardt
Ann Arbor

Jennifer M. Grieco
Birmingham

Phillip C. Korovesis
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Robert M. Raitt
Farmington Hills

Michael J. Sullivan
Southfield

Wolfgang Mueller
Berkley

Ex-Officio

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The Negligence Law Section of the State Bar is interested in the current Court of Claims legislation pending before your Committee, passed through the Senate as SB 652 (2013). We are a voluntary organization that represents over 2,000 plaintiff and defense attorneys in Michigan. The governing council is comprised of an equal number of plaintiff and defense attorneys, in order to achieve a balanced perspective of civil law in Michigan. Though our views do not necessarily represent the State Bar, our members actively practice in the Court of Claims in various aspects of litigation and have insight into the issues before your Committee.

In formulating its position, Council has considered the multiple impacts of SB 652, some of them likely unintended, including:

- The language of the legislation read in conjunction with the canons of statutory construction;
- The testimony and rationale proffered by its proponents;
- The effect Court of Claims litigation has on our State, including injured citizens and governmental agency operations, including the Judiciary;
- The local and statewide fiscal impact of the legislation, including costs of implementation;
- Issues of judicial economy, resources and specialization within various Courts;
- The public interest in preservation of a stable system of civil justice;



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- Access to judicial resources by litigants and counsel, and;
- The Bill's overall impact on Michigan's *juris prudencia*.

Vice Chair

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After significant analysis and deliberation by the Council, the following position was adopted by consensus:

Secretary

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POSITION: OPPOSED TO SBM 652 IN ITS PRESENT FORM AND SUBSTANCE

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We have identified a number of substantive, procedural and practical issues with the proposed legislation that will be explained more fully through Council members' testimony. However, the Section would like to work with the stakeholders to develop alternate means for addressing the concerns identified by the Bill's sponsor and the Sterling Corporation during the Senate Judiciary hearing. For example, rather than enlarging the original jurisdiction of the Court of Appeals into a Court of Claims trial court, together with all the ensuing problems this would create, to instead identify appropriate circuit courts through the State, such as Oakland, Kent and Grand Traverse Counties, to assign selected Court of Claims cases for adjudication. Multi-county trial location venues could be readily accomplished utilizing the existing administrative consolidation mechanism used in current mixed-claim cases, *i.e.* State of Michigan and individual joint tortfeasor cases.

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Please contact this writer or other Council Representatives listed above for more information. We look forward to working with you on this important Bill and to providing you with additional information at the hearing.

Sincerely yours,

Steven B. Galbraith
Chair, SBM Negligence Law Section

Ex-Officio

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