

## INCREASE COURT OF APPEALS FEES

**Senate Bill 566 with House committee  
amendments  
First analysis (10-22-97)**

**Sponsor: Sen. William Van Regenmorter  
Senate Committee: Judiciary  
House Committee: Judiciary**

### ***THE APPARENT PROBLEM:***

The filing fees for bringing cases or motions before the court of appeals have not been increased since 1990. As a result, Michigan's court of appeals fees are not on par with other court of appeals with similarly sized dockets. The court of appeals requested increased funding in the fiscal year 1997-98 judiciary budget bill (Senate Bill 171) 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. Senate Bill 171, as enrolled, increases the court of appeals appropriation, but also specifies that, if legislation to increase court of appeals filing and motion fees is not enacted and effective by October 1, 1997, the court's appropriation for fiscal year 1997-98 will be reduced by not more than \$425,000 and its FTE (full-time equated) positions will be reduced by not more than 10. In order to provide the court of appeals with the additional authorized appropriation and employees, legislation has been introduced to increase the court's filing and motion fees.

for such motions would have to be paid only once, regardless

### ***THE CONTENT OF THE BILL:***

Senate Bill 566 would amend 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 would be exempt from the new fee.

The fee for an appeal as of right, an application for leave to appeal, or an original proceeding would be increased from \$200 to \$250. 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.

Fees for entry of a motion would increase from \$50 to \$75. However, the fee for entry of a motion for immediate consideration or for a motion to expedite appeal would be increased from \$50 to \$150. The fee

of the number of lower court files involved in the appeal. Furthermore, a prosecuting attorney would be 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.

The bill would also repeal section 315 of the fiscal year 1997-98 judiciary budget. That section provides that if legislation to increase court of appeals filing and motion fees is not enacted and effective by October 1, 1997, the court of appeals appropriation would be reduced by not more than \$425,000 and the number of full-time equated exempted (FTE) positions for the court of appeals would be reduced by not more than 10.

The bill would take effect January 1, 1998.

MCL 600.321

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill would generate about \$262,000 in additional state revenues for the court of appeals in fiscal year 1997-98, and about \$350,000 for a full fiscal year, beginning with fiscal year 1998-99. (10-22-97)

### ***ARGUMENTS:***

#### ***For:***

In accordance with section 315 of the 1997-98 judiciary budget, if court of appeals filing and motion fee increases are not legislatively enacted and effective by October 1, the court's fiscal year 1997-98 appropriation will be reduced by up to \$425,000 and up to 10 FTE positions. Senate Bill 566 would prevent this by removing the deadline for increasing the filing and motion fees and by providing for fee increases that would facilitate the generation of additional revenue necessary to provide the court of appeals with the increased appropriation

authorized by the legislature in the 1997-98 judiciary budget. (According to the House Fiscal Agency, the reduction specified in the budget to take place as of October 1, 1997, has not been implemented in anticipation of the passage of this bill.)

#### ***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. According to representatives of the court of appeals, processing an emergency appeal costs on average \$433.45 (and this is in situations where there are only two parties and the pleadings are correctly filed); the \$150 motion fee doesn't even begin to cover these costs.

#### ***Against:***

It should be noted that these increases are quite steep; in particular, the fee for filing a motion for immediate consideration or to expedite an appeal increases from \$50 to \$150. As a result these increases seem more like a tax on those who would seek to use the court of appeals instead of a mere increase to cover operational expenses. This could have a chilling effect upon the filing of these motions on the court of appeals' motion docket. Furthermore, the bill unfairly exempts prosecuting attorneys from paying the motion fees for a motion for immediate consideration or to expedite an appeal, while ordinary citizens are required to pay \$150 if they want to file such motions. This will give prosecutors an advantage in criminal cases where they will have not have to worry about the cost of such motions, while the defendant will.

#### ***Response:***

The increases in these fees are not so high when it is remembered that court of appeals filing fees have been stagnant since 1991. The fees set by the bill are not out of line with fees in other similarly situated state's courts of appeals. Furthermore, the larger increase for motion fees when the motion was for immediate consideration or to expedite an appeal is reasonable because the costs involved in dealing with these motions is significantly higher. Currently, there is one fee for filing a motion, regardless of whether it is for immediate consideration or expediting appeal. 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.

### ***POSITIONS:***

The judges of the court of appeals support the bill. (10-22-97)

The State Bar Appellate Practice Section strongly supports the bill. (10-22-97)

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