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BILL ANALYSIS

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House Bill 4414 (Substitute S-1 as reported)
Sponsor: Representative Ruth Johnson
House Committee: Family and Civil Law
Senate Committee: Judiciary

Date Completed: 4-11-00

RATIONALE

The Revised Judicature Act (RJA) provides for the payment of fees to witnesses who attend actions before a court of record or who attend inquests or other proceedings before a person authorized to examine witnesses. In addition to prescribing a \$15 maximum fee for loss of work time, the RJA provides for these witnesses to be paid 10 cents per mile for travel expenses. The per-mile travel expense apparently has not been increased since 1963. Some contend that the rate is inadequate, especially compared with the rates paid by businesses and governmental entities for employee travel reimbursement. For example, State officers and unclassified employees of State agencies currently are reimbursed 32.5 cents per mile. Some people believe that certain witnesses should receive the same rate at which unclassified State employees are reimbursed for travel.

CONTENT

The bill would amend the Revised Judicature Act to change the reimbursement rate required to be paid for travel expenses of a witness, other than a prosecution witness, who attends an action or proceeding pending in a court of record. The bill would take effect on October 1, 2000.

Currently, a witness must be reimbursed for his or her traveling expenses at a rate of 10 cents per mile to be estimated from his or her residence, if it is within Michigan, or from the State boundary that the witness passed through in coming into Michigan, if his or her residence is outside of Michigan.

Under the bill, except as otherwise provided for prosecution witnesses in the Code of Criminal Procedure (described below), the per-mile rate of reimbursement of traveling expenses for witnesses would have to be the same as the per-mile travel reimbursement rate established by directives of the Department of Management and Budget for State officers and unclassified employees of State agencies while engaged in the performance of State business.

(Under the Code of Criminal Procedure, when a person attends a court of record as a witness in behalf of the State, upon request of the prosecutor, upon subpoena, or by virtue of a recognizance for that purpose, and the person comes from outside of Michigan or the person is poor, the court may direct the county treasurer to pay the witness an amount that seems reasonable for the witness's expense (MCL 775.7). In addition, the Code specifies that, if a person attends court as a witness in behalf of the prosecution, upon the request of the prosecutor, upon subpoena, or because of a recognizance for that purpose, the witness is entitled to 10 cents per mile traveled in going to and returning from the appearance, estimated from the person's residence if within Michigan or from the State boundary that the witness passes through in traveling to attend court (MCL 775.13).)

MCL 600.2552

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 mileage rate paid to witnesses evidently has not been increased in 37 years and, as a result, the

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current rate does not come close to being a fair reimbursement of expenses. The Federal rate for witness travel reimbursement reportedly is 31 cents per mile--more than three times what is currently paid to witnesses under Michigan law. It is long past time to change the witness travel reimbursement rate to make certain that rates paid to witnesses are more reasonable, given current costs. Further, by tying the rate to the amount paid to certain State employees, the bill would help to prevent the rate from remaining stagnant for another three or four decades before it was increased again.

Response: If witness fees were to be increased and indexed to State employee reimbursement rates, perhaps jurors also should receive increased rates.

Opposing Argument

The bill's impact could be considerably more far-reaching than expected. A number of other acts set their fees by reference to the rate paid to witnesses in the circuit courts. As a result, the bill not only would change the travel rates for witnesses in circuit court cases, but also would affect the fees paid to witnesses in a number of out-of-court situations. These witnesses include individuals summoned or subpoenaed before the Agricultural Marketing and Bargaining Board (MCL 290.725), the Public Service Commission (MCL 462.23), the Department of Transportation (MCL 462.153), the Department of Natural Resources (MCL 324.20117), or the Attorney General in witnesses in investigations under the Natural Resources and Environment Protection Act (324.33927); inspections and investigations under the Michigan Occupational Safety and Health Act (MCL 408.1209); and people who are subpoenaed in election recounts (MCL 168.886).

Legislative Analyst: P. Affholter

FISCAL IMPACT

To the extent that the State or local units of government are parties in court and certain administrative proceedings, the increase in mileage reimbursement would result in increased costs. The Department of Attorney General paid \$13,614 in witness fee reimbursements (including travel) in FY 1998-99. Other departments also pay these costs when they are parties in legal proceedings. No Statewide data are available on total payments by the State for travel reimbursement for witnesses.

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