

Legislative Analysis



TRANSFER COURT OF CLAIMS TO STATE COURT OF APPEALS

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Senate Bill 652 (Substitute S-1)

(Enacted as Public Act 164 of 2013)

Sponsor: Sen. Rick Jones

House Committee: Government Operations

Senate Committee: Judiciary

Complete to 11-4-13

A SUMMARY OF SENATE BILL 652 AS PASSED BY THE SENATE 10-30-13

The bill, generally speaking, would transfer the Court of Claims from the 30th Judicial Circuit (Ingham County Circuit Court) to the state Court of Appeals.

The Court of Claims is the court with the jurisdiction over claims and demands against the State of Michigan and any of its departments, commissions, boards, institutions, arms, or agencies. It also has jurisdiction over any counterclaim on the part of the state against any claimant who brings an action in the Court of Claims.

Currently, under Chapter 64 the Revised Judicature Act, the Court of Claims is created as a function of the Circuit Court for the 30th Judicial Circuit (Ingham County). A judge of that circuit, and any judge the State Court Administrator assigns into that circuit, may exercise the jurisdiction of the Court of Claims.

Under **Senate Bill 652**, the Court of Claims would consist of four appeals court judges from at least two Court of Appeals districts assigned by the Michigan Supreme Court. An appeals court judge, while sitting as a judge of the Court of Claims, could exercise the jurisdiction of the Court of Claims. A judge assigned as a judge of the Court of Claims would be assigned for a term of two years and could be reassigned. The term would expire on May 1 of each odd-numbered year.

When a judge who was sitting as a judge of the Court of Claims left office or was otherwise unable to serve as a judge of the Court of Claims, the Supreme Court could assign a Court of Appeals judge to serve for the remainder of the judge's term on the Court of Claims. The Supreme Court would have to select a chief judge of the Court of Claims from among the Court of Appeals judges assigned to it.

All matters pending in the Court of Claims as of the bill's effective date would be transferred to the clerk of the Court of Appeals, acting as the clerk of the Court of Claims, for assignment to a Court of Appeals judge sitting as a Court of Claims judge. The Supreme Court shall have power to make special rules for the Court of Claims.

The bill also would do the following:

- Allow Court of Claims sessions to be held in the various Court of Appeals districts, and allow a plaintiff to file a cause of action in the Court of Claims in

any Court of Appeals district. The court's clerk would assign a cause of action filed in the court by blind draw to a Court of Appeals judge sitting as a Court of Claims judge.

- Require the Court of Claims to sit in the Court of Appeals district where the judge serving as Court of Claims judge otherwise sits, unless otherwise determined by the chief judge.
- Require, as now, the court to hold at least four sessions each year.
- Require all fees in the Court of Claims to be at the rate established by statute or court rule for actions in the circuit court (not the appeals court) and to be paid to the Court of Claims clerk.
- Delete a provision that requires the state to reimburse Ingham County for costs incurred in operating the Court of Claims.
- Grant the Court of Appeals original jurisdiction over challenges to the transfer of the Court of Claims from the 30th Circuit to the Court of Appeals.

The bill would rewrite the section describing the jurisdiction of the court. Under the bill, except as otherwise provided, the Court of Claims would have the jurisdiction to do the following:

- Hear and determine any claim or demand or any demand, statutory or constitutional . . . or any demand for monetary, equitable, or declaratory relief or any demand for an extraordinary writ against the state or "any of its departments or officers," notwithstanding another law that confers jurisdiction of the case in the circuit court.
- Hear and determine any counterclaim on the part of the state, or any of its departments or officers, against any claimant who brought an action in the Court of Claims.
- Appoint and use a special master as considered necessary.
- Hear and determine any action challenging the validity of a notice of the transfer of pending and future Court of Claims matters from the 30th Circuit Court to the Court of Appeals.

The bill would define "the state or any of its departments or officers" to mean this state or any state governing, legislative, or judicial body, department, commission, board, institution, arm, or agency of the state, or officers, employees, or volunteers of any of those entities, acting, or who reasonably believes that they are acting, within the scope of their authority while engaged in or discharging a government function in the course of their duties.

(Note: Under the RJA, the State Administrative Board is vested with discretionary authority, upon the advice of the Attorney General, to hear, consider, determine, and allow any claim against the state in an amount less than \$1,000.)

The bill also contains statements that Chapter 64: (1) does not deprive the circuit court of exclusive jurisdiction over appeals from the district court and administrative agencies as authorized by law and (2) does not deprive the circuit court of exclusive jurisdiction to issue, hear, and determine prerogative and remedial writs under Article VI, Section 13, of the State Constitution.

MCL 600.308 et al.

FISCAL IMPACT:

The Court of Claims is currently a function of the Ingham County Circuit Court. Statute authorizes the state to reimburse Ingham County for costs incurred in carrying out the duties and responsibilities associated with the Court of Claims. Under the bill, while responsibility for the Court of Claims would shift from the Ingham County Circuit Court to the Court of Appeals, the state would continue to be responsible for the costs.

The Ingham County Circuit Court is reimbursed by the state based on the percentage of caseload that the Court of Claims represents relative to its overall caseload. For FY 2013, the reimbursement was \$156,295 for Court of Claims (2.7% of cases) and \$293,414 for State Litigation (5.0% of cases). For FY 2012, it was \$118,950 for Court of Claims (2.0% of cases) and \$343,452 for State Litigation (5.9% of cases). Under the bill, the Ingham County Circuit Court would no longer receive reimbursement from the state for the Court of Claims cases and would have to absorb the reduction in funding. It is not known how many State Litigation cases would be filed in Ingham County. Ingham County would no longer receive reimbursement for State Litigation cases not filed in Ingham County.

In the long term, due to a lower number of caseloads as a result of removing Court of Claims cases from the dockets, the Judicial Resource Recommendation could be that Ingham County Circuit Court judgeships be reduced. If the legislature enacted such legislation, the state, not the county, would realize a savings of \$158,364 per circuit court judgeship eliminated. The state pays the salary, payroll taxes, and retirement benefits of circuit court judges. The Ingham County Circuit Court covers the costs of fringe benefits and costs of the staff. The Ingham County Circuit Court could potentially realize a savings in overhead costs if there was a reduction in the number of circuit court judges and if there was a reduction in the staff associated with those judges.

Under the bill, there would be an indeterminate amount of transition costs that would occur.

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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.