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BILL ANALYSIS



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Senate Bill 652 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Rick Jones
Committee: Judiciary

(as enacted)

Date Completed: 11-4-13

CONTENT

The bill would amend the Revised Judicature Act (RJA) to do the following:

- **Delete provisions creating the Court of Claims in the 30th Judicial Circuit (Ingham County), and require all actions initiated in the Court of Claims to be filed in the Court of Appeals (COA).**
- **Provide that the Court of Claims would consist of four COA judges from at least two COA districts, assigned by the Supreme Court.**
- **Transfer all matters within the jurisdiction of the Court of Claims to the COA.**
- **Allow Court of Claims sessions to be held in the various COA districts, and allow a plaintiff to file a cause of action in the Court of Claims in any COA district.**
- **Require the COA clerk to serve as the Court of Claims clerk.**
- **Require the Court of Claims to sit in the COA district where the judge serving as Court of Claims judge otherwise sat.**
- **Require all fees in the Court of Claims to be at the rate established for actions in the circuit court and to be paid to the Court of Claims clerk.**
- **Delete a provision requiring the State to reimburse Ingham County for the costs incurred in operating the Court of Claims.**
- **Grant the COA original jurisdiction over challenges to the transfer of the Court of Claims from the 30th Circuit to the COA.**

The bill would repeal Section 6419a of the RJA, which grants the Court of Claims concurrent jurisdiction of matters ancillary to a claim filed in the Court of Claims.

Court of Claims Transfer to COA

Under Chapter 64 (Court of Claims) of the RJA, the Court of Claims is created as a function of the Circuit Court for the 30th Judicial Circuit. 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 the bill, instead, the Court of Claims would consist of four Court of Appeals judges from at least two COA districts, assigned by the Supreme Court. A COA judge, while sitting as a judge of the Court of Claims, could exercise the jurisdiction of the Court of Claims. All matters pending in the Court of Claims as of the bill's effective date would be transferred to the clerk of the COA, acting as the clerk of the Court of Claims, for assignment to a COA judge sitting as a Court of Claims judge.

Beginning on the bill's effective date, any matter within the jurisdiction of the Court of Claims, pending or later filed in any court, would have to be transferred to the COA upon notice of the State or a department or officer of the State. The transfer would be effective upon the filing of the transfer notice. The State, department, or officer would have to file a copy of the transfer notice with the COA clerk, who would have to act as the Court of Claims clerk, for assignment to a COA judge sitting as a Court of Claims judge.

Under Chapter 64, in case of the disability or absence of a circuit judge before whom a Court of Claims case has been tried or motion heard, another circuit judge designated to sit as the judge of the Court of Claims may continue, hear, determine, and sign all matters that his or her predecessor could have continued, heard, determined, and signed. The bill would delete that provision. Under the bill, instead, if a judge assigned to serve on the Court of Claims were disabled, disqualified, or otherwise unable to attend to a matter, another judge assigned to sit as a judge of the Court of Claims could continue, hear, determine, and sign orders and other documents in the matter.

A judge assigned as a judge of the Court of Claims would have to be assigned for a term of two years and could be reassigned. The term of a Court of Claims judge 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 COA 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 COA judges assigned to it.

Sessions of the Court of Claims

Chapter 64 requires the Court of Claims to hold at least four sessions each year. Sessions may be held in the various circuits in the State as the Supreme Court administrator may determine. The bill specifies instead that sessions of the Court of Claims could be held in the various COA districts as determined by the State Court Administrator.

Under Chapter 64, if the hearing in a particular case is to be held at a place other than the City of Lansing, due notice must be given to all interested people. The sheriff of the county where a case is heard, or one of the sheriff's deputies, must serve as court officer without additional compensation. The bill would delete those provisions.

Clerk, Location, & Funding

Chapter 64 requires the circuit judges of the 30th Judicial Circuit to appoint or remove the clerk of the Court of Claims. The bill instead would require the clerk of the Court of Appeals to serve as the clerk of the Court of Claims.

The bill specifies that a plaintiff could file a cause of action in the Court of Claims in any COA district. The clerk of the Court of Claims, by blind draw, would have to assign a cause of action filed in the Court of Claims to a COA judge sitting as a Court of Claims judge.

The bill would require the Court of Claims to sit in the COA district where a COA judge serving as a judge of the Court of Claims sat, unless otherwise determined by the chief judge of the Court of Claims.

Chapter 64 requires the State to reimburse Ingham County for the reasonable and actual costs incurred by the county for implementing jurisdictional duties in the circuit court related to the Court of Claims. The county must submit quarterly itemized costs to the State Court Administration Office. After a determination of reasonableness by the State Court Administrator, payment must be made pursuant to the accounting laws of the State. The bill would delete those provisions.

Fees

The bill would 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. The bill also would require the fees to be paid to the clerk of the Court of Claims.

Jurisdiction of the Court of Claims & COA

Except as otherwise provided, the jurisdiction of the Court of Claims, as conferred upon it by Chapter 64, is exclusive. The State Administrative Board, however, 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 would retain those provisions, and would require all actions initiated in the Court of Claims to be filed in the Court of Appeals.

Currently, the Court of Claims has the power and jurisdiction to hear and determine all claims and demands against the State and any of its departments, commissions, boards, institutions, arms, or agencies. It also has the power and jurisdiction to hear and determine any counterclaim on the part of the State or any department, commission, board, institution, arm, or agency of the State against any claimant who brings an action in the Court of Claims.

Under the bill, except as otherwise provided, the Court of Claims would have the power and jurisdiction to do the following:

- Hear and determine any claim or demand 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.
- 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 the Court of Claims 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" as the State of Michigan or any State governing, legislative, or judicial body, department, commission, board, institution, arm, or agency of the State, or an officer, employee, or volunteer of any of those entities, acting, or who reasonably believes that he or she is acting, within the scope of his or her authority while engaged in or discharging a government function in the course of his or her duties.)

Also, under the bill, the Court of Appeals would have exclusive original jurisdiction over any action challenging the validity of provisions establishing the Court of Claims in the COA, appointing the COA clerk as Court of Claims clerk, providing for the Court of Claims to sit at COA district locations, and establishing the jurisdiction of the Court of Claims.

The bill specifies that Chapter 64 would not deprive the circuit court of exclusive jurisdiction over appeals from the district court and administrative agencies, as authorized by law. It also would not deprive the circuit court of exclusive jurisdiction to issue, hear, and determine prerogative and remedial writs consistent with Article VI, Section 13 of the State Constitution.

FISCAL IMPACT

Currently, the Court of Claims is a function of the Ingham County Circuit Court. However, Ingham County is reimbursed by the State for actual and reasonable costs incurred in carrying out the duties associated with the Court of Claims. Therefore, although the bill would shift responsibility for the duties of the Court of Claims from the Ingham County Circuit Court to the Court of Appeals, the costs would remain the responsibility of State government. The Ingham County Circuit Court is reimbursed based on the percentage of caseload that the Court of Claims represents relative to its overall caseload. The annual reimbursement of these costs is approximately \$500,000. Therefore, without the reimbursement from the State, the Ingham County Circuit Court would need to absorb a reduction of \$500,000 through either staff reductions or other efficiencies.

In the long run, starting with the 2015 Judicial Resource Recommendation and beyond, it is possible that the Ingham County Circuit Court could be reduced in the number of judgeships due to the lower caseload based on the removal of Court of Claims cases from its docket. The State pays for the salary, payroll taxes, and retirement benefits of all the judges in the State, so the reduction of a circuit court judge would save the State \$158,364. The local court system pays for fringe benefits such as health care and also provides associated staff, but the primary source of potential savings for local units is a result of how much overhead, if any, can be eliminated based on the reduction of a judgeship. The Court of Appeals judges cost the State \$184,159 for salary, payroll taxes, and retirement; this figure does not include fringe benefits such as health care or any associated staff costs. However, the Court of Appeals currently has excess capacity that could absorb the Court of Claims caseload without adding judgeships.

The Court of Appeals has a filing fee of \$375, while the circuit courts have filing fees of \$150. Other fees, such as motion fees, are also higher in the Court of Appeals than in circuit courts. The bill contains language dictating that the circuit court fees would continue to apply to cases filed in the Court of Claims.

There would be an indeterminate amount of transition costs associated with winding down operations at the Ingham County Circuit Court and starting up operations under the direction of the Court of Appeals.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.