



**House
Legislative
Analysis
Section**

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FEES: SHERIFFS, REGISTERS OF DEEDS

House Bill 5175 (Substitute H-2)
First Analysis (11-30-89)

RECEIVED

Sponsor: Rep. Gregory E. Pitoniak
Committee: Judiciary

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THE APPARENT PROBLEM:

Many counties in Michigan are finding that the fees that statute allows them to charge for various services fall far short of actual costs. To rectify matters, a number of bills have been introduced in the legislature to amend the various acts involved. Certain register of deeds fees and sheriffs' fees for service of process and other matters are set by the Revised Judicature Act. Amendments have been proposed to raise fees and, in certain circumstances, allow fees to be set locally.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to raise certain fees that may be charged by sheriffs and registers of deeds, and to allow the county to set fees to meet costs for certain other services.

Sheriffs' fees would be increased as follows: for bringing up a prisoner on habeas corpus, \$5 plus unspecified mileage, up from \$3 plus mileage of 15 cents per mile; for attending court with that prisoner, \$7 per day, up from \$5 ("actual necessary expenses" may now and could continue to be charged); for receiving a prisoner from the court, \$20, up from \$15; for levy under a writ of execution, \$40, up from \$20.

Fees for services other than those described above, such as various service of process fees and foreclosure fees, could be set by the county board of commissioners. A fee could not be more than the reasonable direct cost of providing the service. Before setting the fee, the county would have to hold a public hearing in compliance with the Open Meetings Act. A fee would have to remain in effect for at least two years. Fees set by counties would be published in the Michigan Register each November.

At present, a sheriff or private process server who overcharges is liable to the injured party for three times the amount charged, plus court costs. Under the bill, the penalty would be three times the difference between the amount charged and the amount allowed.

Fees charged by registers of deeds would be increased as follows: for copies of records, from \$1 to \$2 per page; for a seal to exemplification, from \$1 to \$2; for searching records, from 10 to 20 cents for each year for which searches are made, with a minimum fee of \$2 (rather than the current \$1 minimum); for certain filings, from \$1 to \$2; for certain searches, from 10 to 20 cents for each paper examined.

MCL 600.2558, 600.2559, and 600.2567

FISCAL IMPLICATIONS:

The House Fiscal Agency says that the bill would increase revenues for local units of government in an indeterminable amount. (11-28-89)

ARGUMENTS:

For:

The bill would ease financial burdens on counties by bringing various fees into closer approximation to costs. Many of the fees have not been raised for years, and are now woefully out of date. The bill would provide for increased fees, with approaches varying according to the circumstances of a given fee. Thus, fees for registers of deeds, whose costs of providing the services are relatively uniform throughout the state, would be raised, but set by statute. Sheriffs' fees relating to habeas corpus, a constitutionally-guaranteed right, would be kept uniform throughout the state. Most other sheriffs' fees, however, could be set locally to meet costs, which vary widely from county to county, and may far exceed current statutory limitations. The cost of serving process in some urban counties, for example, is reported to be around \$50 or \$60. Being able to set fees to meet costs is of particular importance in Wayne County, where the county is struggling to maintain solvency. Though some may worry that the bill may lead to confusion or abuse, any such problems should be forestalled by provisions for open hearings, publication of fees, and justification of costs.

Against:

The bill would open the way for 83 different fee schedules for sheriffs and private process servers. To the degree that fees varied across the state, equal access to justice would be denied. Further, the bill ignores the complications presented by actions brought in courts whose jurisdictions include more than one county; it would be possible under the bill for one court to have to coordinate with more than one county-established fee schedule. It appears that a private process server could charge one fee in one county and another in an adjacent county, even though both actions were being brought in the same city and/or in the same court.

Against:

By allowing fees to be raised to meet costs, the bill would leave little incentive for counties to keep costs down.

POSITIONS:

The Michigan Association of Counties supports the bill. (11-28-89)

The Michigan Sheriffs Association supports the bill. (11-28-89)

The United County Officers Association supports the bill. (11-29-89)

H.B. 5175 (11-30-89)