



**House
Legislative
Analysis
Section**

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INCREASE LEGAL NOTICE FEES

House Bill 5036 (Substitute H-2)
First Analysis (2-15-96)

Sponsor: Rep. Michael Nye
Committee: Judiciary and Civil Rights

THE APPARENT PROBLEM:

Currently, the Revised Judicature Act (Public Act 236 of 1961) sets the maximum rates that a publication can charge for publishing certain legal notices that are required by law to be published in a newspaper (such as mortgage foreclosures, name changes, and probate notices). Michigan has a long history of statutorily regulating the publication fees newspapers may charge for these legal notices. Although the state has occasionally raised the rates that a newspaper may charge for publishing legal notices, the last time such a rate increase occurred was in 1985.

As a result, newspapers are forced to charge significantly less for legal notices than they might otherwise charge, and in some cases less than is needed to cover printing and publishing costs. Legislation has been introduced to raise the rate ceiling that newspapers may charge for legal notices to bring them more in line with current costs.

THE CONTENT OF THE BILL:

House Bill 5036 would amend the Revised Judicature Act to increase the maximum rate a publication may charge for publishing a legal notice, order, citation, summons, or other matter required by law to be published in a newspaper. The maximum rates allowable would be increased from \$13.75 to \$20 per folio (100 words) for the first insertion, and from \$5.35 to \$8 per folio for subsequent insertions. The minimum rate for notices which must appear two or more times would increase from \$39 to \$55, and the minimum rate for notices that appear once would increase from \$29 to \$40. The bill would take effect June 1, 1996.

MCL 600.2534

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have an indeterminate fiscal impact. The agency notes that the number of legal notices required to be published varies, and the amount charged for publishing varies between newspapers. (2-14-96)

ARGUMENTS:

For:

It has been more than a decade since the prices newspapers could charge for legal notices was last raised. During the years between the last time the rates were increased and the present, the U.S. Consumer Price Index has increased 44.8 percent, newsprint costs have increased by 50 percent, and market advertising rates have increased by over 50 percent. Although the costs of publishing legal notices has continued to rise, the newspapers have been unable to raise their fees to meet these rising costs. Smaller community weekly newspapers receive a significant portion of their budget from the publication of legal notices, and have been negatively impacted by a decades worth of artificially lowered rates. The bill is necessary to allow publishers to bring their fees for publishing these notices in line with the current costs of publication. Furthermore, the rates set by the bill would be ceilings and would not mean that all publishers will necessarily charge the rates indicated in the bill.

Against:

The bill does not go far enough. The prices of such notices should not be regulated, but rather should be set by the market. The proliferation of publications meeting the definition of "newspaper" for the purpose of publishing legal notices has reached the point of allowing sufficient competition to allow for market forces to drive the setting of such prices.

Against:

The publication of legal notices is required by law; the individual that seeks the publication of these notices is not able to refuse to accept the price set by the newspapers. This leaves the consumer forced to accept whatever rate the newspaper chooses to charge. Allowing the newspapers to continue to increase charges against a captive market is inherently unfair to the consumers in that market.

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POSITIONS:

The Detroit Legal News Company supports the bill.
(2-14-96)

The American Court and Commercial Newspapers
support the bill. (2-14-96)

■ 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.