



**House
Legislative
Analysis
Section**

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**WAYNE COUNTY COURT FUNDING;
EXCESS COURT FILING FEES**

**House Bill 6185 (Substitute H-1)
House Bill 6204 as introduced**

First Analysis (11-21-96)

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

THE APPARENT PROBLEM:

Public Act 374 (enrolled House Bill 5158) of 1996, among other things, created a new "court equity fund" and a new formula for distributing money for courts from the fund to the state's 83 counties, eliminated special state funding for the three "state-funded" Wayne County trial courts (the Third Circuit Court, the 36th District Court, and Detroit Recorder's Court), and created a five-year, decreasing "hold harmless fund" to be used to make up shortfalls in funding to Wayne County and Detroit under the new court funding formula in the act. Under Public Act 374, Wayne County was to receive the difference of \$22,820,300 (the amount of state general fund/general purpose funds, plus state court funds, allocated to the third judicial circuit, recorder's court, and Wayne County clerk services by the supreme court for fiscal year 1995-96) minus the amount it received from the new court funding formula. Public Act 388 (enrolled Senate Bill 1052) of 1996, which created a family court division in the circuit court, amended this provision of the RJA, added juror reimbursement fees received by Wayne County under the judicial budget for fiscal year 1995-96 to the \$22,820,300 figure from which the money Wayne County received under the new funding formula was to be subtracted. In addition, enrolled House Bill 6024 redirected money from excess court filing fees from "state financed trial courts" to the new state court equity fund, but the governor vetoed the bill. Without this source of revenue (which reportedly had been averaging \$2.2 million a year until fiscal year 1995-96, when it rose to \$3.7 million, presumably because of recent tort reform legislation), the amount of money in the state court equity fund reportedly would be 4.4 percent below what the counties had been led to expect.

Public Acts 374 and 388 of 1996, as well as Public Act 375 of 1996 (the judicial budget for fiscal year 1996-97), reportedly were based on the assumption that the money from excess court filing fees in the court fee fund would go to the new court equity fund for distribution to all of the counties in the state. Enrolled House Bill 6024 would have repealed the section of the Judges Retirement Act

that currently directs excess court filing fees to the state court fund and instead would have directed these excess court filing fees to the new state court equity fund. However, the governor vetoed House Bill 6024, which meant a loss to the new state court equity fund of the \$2.2 million that the excess court filing fees had been generating annually. Since the legislation changing court funding assumed that the new state court equity fund would have \$50,004,000 in fiscal year 1996-97 to distribute to the counties, loss of the excess court filing fees would mean that the fund would have only \$47,800,400, a 4.4 percent reduction in money available for distribution to the counties for courts. Legislation is needed to reinstate this source of funding for the state court equity fund, as well as some changes reflecting employee benefits negotiations that have taken place since enactment of Public Acts 374 and 388.

THE CONTENT OF THE BILLS:

House Bill 6185 would amend the section of the Revised Judicature Act that creates the state court equity fund (MCL 600.151b) to revise the statement of the amount of state funding Wayne County receives and upon which the Wayne County distribution from the "hold harmless" fund is based. The bill would delete the current \$22,820,300 figure and would instead list specific sources of state funding, whose total would then be used to determine the amount due Wayne County from the "hold harmless" fund (by subtracting from this total the state court equity fund distribution to Wayne County).

More specifically, the bill would say that Wayne County would receive the difference between the amount it received under the new formula and the total of the following:

**** the amount of general fund/general purpose funds paid (rather than allocated) for the Third Circuit Court, Detroit Recorder's Court, and Wayne County clerk services by the supreme court under Public Act 149 of**

House Bills 6185 and 6204 (11-21-96)

1995 (the 1995-96 judicial budget) for the state fiscal year 1995-96;

** the amount of the state court fund paid (rather than allocated) for the Third Circuit Court, Detroit Recorder's Court, and Wayne County clerk services for fiscal year 1995-96 by the supreme court under the 1995-96 judicial budget;

** the amount of excess court fees distributed under the Judges Retirement Act for the Third Circuit Court for fiscal year 1995-95;

** \$1,438,900 received by Wayne County for reimbursement of compensation paid to jurors under the 1995-96 judicial budget; and

** two percent of the expenditures for salaries, wages, and Social Security and Medicare taxes for employees of the State Judicial Council assigned to serve in the Third Circuit Court and Detroit Recorder's Court for fiscal year 1995-96.

House Bill 6204 would amend the Judges Retirement Act of 1992 (MCL 38.217) to require the state treasurer to transmit the money in the court fee fund to the court equity fund created by Public Act 374 of 1996 for operational expenses of trial courts (instead of "disbursing" this money for "state financed" trial courts).

BACKGROUND INFORMATION:

Beginning in 1982, after the Wayne County-Detroit court reorganization, revenue from court filing fees that exceeded what was actuarially necessary for the judges' retirement system reserve account has been used by the state to defray the costs of operating "state financed" trial courts (that is, the Third [Wayne County] Circuit Court, Detroit Recorder's Court, and the 36th [Detroit] District Court). When the Judges Retirement Act of 1992 was enacted, out of a concern that federal regulators might object to the diversion of funds from a retirement system, the act directed the excess filing fee revenue to a "court fee fund" (MCL 38.2304). That fund was created by the act (MCL 38.2217) and money received in the court fee fund was then to be disbursed for state financed trial courts. Reportedly, that disbursement could be stopped if the federal Internal Revenue Service notified the state that the judges retirement system was disqualified for tax purposes under the Internal Revenue Code because of that diversion. However, no such notification has occurred, and the excess filing fee revenue has continued to be used by the supreme court for the operating costs of the Third Circuit Court, Detroit Recorder's Court, and the 36th District Court through fiscal year 1995-96. Annual revenues have been about \$2.2 million, though in fiscal

year 1995-96, a large increase in civil filings (presumably because of a legislative "tort reform" deadline) resulted in \$3.7 million in revenues.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, House Bill 6204 provides a shift in revenues to the court equity fund, which provides reimbursements to funding units for court costs. Prior deposits were used to offset general fund/general purpose money to the state funded trial court (that is, the Wayne County trial courts). Projected receipts from excess court filing fees for fiscal year 1996-97 are estimated at \$2.3 million. (11-15-96)

According to staff to the Judiciary and Civil Rights Committee, with regard to House Bill 6185, the estimated cost for the two percent employee compensation increase is \$664,722. The actual expenditures for the courts in question is estimated at \$47,004,359, with the actual state revenues used to pay for those expenditures -- which Wayne County would be expected to take over upon return of the Third Circuit Court and Detroit Recorder's Court to county funding -- being estimated at \$23,457,380 (based on supreme court staff information and subject to outstanding invoices, yet-to-be reported revenues, and final calculations of the state court fund for fiscal year 1995-96). Of this amount, \$10,167,557 would be for the Third Circuit Court; \$4,296,000 would be for Wayne County clerk services; and \$8,993,823 would be for Detroit Recorder's Court. (Local, court-generated, and federal revenues -- which would account for the remainder of the \$47,004,359 -- is estimated to be \$23,546,979.)

ARGUMENTS:

For:

The bills are needed both to clean up some problems with the Wayne County "hold harmless" provisions of Public Acts 364 and 388 of 1996, which created a new system of state court funding, and the veto by the governor of legislation that would have directed excess court filing fee revenues from "state financed trial courts" to the new state court equity fund.

Apparently, when the \$22,820,300 figure was calculated as the amount that Wayne County would receive for the Third Circuit Court, Detroit Recorder's Court, and Wayne County clerk services, this figure was based on the supreme court's internal budget allocation of general fund/general purpose and state court fund money, with the assumption that these two sources were the only sources of state funding to the state-funded Wayne County trial courts. However, apparently the supreme court also has been using the excess court filing fee

revenue for the operating costs of the Third Circuit Court, Detroit Recorder's Court, and the 36th (Detroit) District Court, so the \$22,820,300 figure for state funding to Wayne County was incomplete. So in order to accurately reflect in statute what Wayne County is receiving in state funding, current law needs to be amended to reflect the state funding from excess court filing fee revenues. In addition, two percent of the fiscal 1995-96 expenditures for salaries and wages and FICA for State Judicial Council employees in the Third Circuit and Detroit Recorder's Court -- a cost resulting from a union contract covering fiscal year 1995-96 and over which Wayne County has no control -- needs to be added to the base amount of revenues received by the county.

In addition to replacing a specific dollar amount (\$22,820,300) with specific categories of funding, House Bill 6185 also would replace reference to supreme court allocations with, instead, the actual expenditures for fiscal year 1995-96 and the actual state revenues used to pay for those expenditures.

Finally, House Bill 6204 is needed to compensate for the governor's veto of earlier legislation that would have directed excess court filing fees to the state court equity fund in order to avoid a fund shortfall for fiscal year 1996-97. Reportedly, the governor vetoed the bill out of concern for the earmarking of this revenue and a misunderstanding of the purpose and need for the amendment, but subsequent discussions have ameliorated that misunderstanding. Without such legislation, the \$50,004,000 projected for state court equity fund would drop to \$47,800,400, some 4.4 percent less than the counties have been led to expect they would get under the new court funding formula. Instead of abolishing the court fee fund, as enrolled House Bill 6024 would have done, however, House Bill 6204, would keep the fund, as well as the provision to cut the revenue flow from the fund if the federal Internal Revenue Service objected.

POSITIONS:

There are no positions on the bill.

Analyst: S. Ekstrom

■ 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.