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PROHIBIT STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION

House Bill 4680

Sponsor: Rep. Jack Horton

Committee: Judiciary

Complete to 8-19-97

A SUMMARY OF HOUSE BILL 4680 AS INTRODUCED 4-24-97

The bill would amend the Revised Judicature Act to prevent any legal action from being brought against a person or other legal entity for his, her, or its public participation. Public participation would include any speech or conduct intended, in whole or in part, to initiate, obtain, or procure an act or response by a governmental unit. The bill would define a governmental unit to include any political subdivision of the state, the state itself, or any authorized representative of the state or a political subdivision.

Civil lawsuits, crossclaims, counterclaims, or any other sort of judicial proceeding that sought any redress other than injunctive relief as a result of a person's public participation would be prohibited. If a such an action were brought, the defendant could file a motion to have the action dismissed with prejudice in the court where the action was pending. During the hearing on the motion, the party opposing the motion (the party who had initiated the action against the defendant) would have the burden of proof and the burden of going forward with the evidence. Unless the opposing party were able to establish, by clear and convincing evidence, that the legal action had not been based upon the defendant's public participation, the motion for dismissal would have to be granted. Until the court had ruled on the motion for dismissal, all discovery proceedings in the underlying action would be suspended, including any appeals of the court's ruling on the motion. However, after a motion and hearing on the issue, the court could grant specified limited discovery.

During any motion for dismissal under the bill, both the attorney general and the governmental unit to which the individual's communications had been directed could intervene, defend, or otherwise support the person being sued for his or her public participation.

A defendant who won a motion to dismiss would be awarded costs, including reasonable attorney fees. In addition, the defendant could be awarded actual damages, provided that he or she could establish by clear and convincing evidence that the dismissed legal action had been brought to harass, inhibit public participation, interfere with constitutional rights, or otherwise wrongfully injure the defendant.

MCL 600.2970

Analyst: W. Flory

■ 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.