

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5083 (as reported without amendment)
Sponsor: Representative Andrew Raczkowski
House Committee: Family and Civil Law
Senate Committee: Judiciary

Date Completed: 4-11-00

RATIONALE

Fees for admission to the State Bar for licensure to practice law in Michigan have not been increased since the passage of Public Act 100 of 1989. Current fee revenue does not cover the costs of the State Board of Law Examiners in administering the bar exam and conducting background investigations, and the State General Fund makes up for the deficit. The Judiciary budget for fiscal year (FY) 1999-2000 was based on an increase in fees to cover the annual shortfall, but the fee increases have not yet been enacted. Even though the bar examination has already been administered once this year and some applicants for the second test in 2000 have already paid their fees, some people feel that the fee increases anticipated by the FY 1999-2000 Judiciary budget should be enacted for exams and investigations beginning in 2001.

CONTENT

The bill would amend the Revised Judicature Act to increase various fees required for application for admission to the State Bar after January 1, 2001, and allow the Michigan Supreme Court to raise the fees further after January 1, 2002.

The bill would raise the fee for applying for the bar exam from \$175 to \$300, for an examination occurring after January 1, 2001; the fee for a reexamination or recertification would increase from \$100 to \$200 after that date; and the fee for admission to the bar without examination would increase from \$400 to \$600 after that date. The bill would retain the \$100 additional fee for late filing of an application or transfer of an application.

Under the bill, the Supreme Court, by administrative order or rule, could increase the fee amounts for applying for an exam, reexamination or recertification, or admission without an exam. The exam application fee could be increased to not more than \$400, for an examination occurring after January 1, 2002; the fee for a reexamination or

recertification occurring after that date could be raised to not more than \$300; and the fee for admission without examination after that date could be increased to not more than \$800.

MCL 600.931

BACKGROUND

The State Board of Law Examiners is charged with investigating and examining applicants for admission to the State Bar of Michigan. The board administers the bar examination twice annually, in February and July. A person licensed to practice in another state may apply to the board to practice in Michigan, without taking the examination. In those cases, the board must determine if the applicant meets State requirements for admittance to practice law. Reportedly, about 1,380 applicants will take the bar exam this year, including those retaking the exam, and about 140 lawyers from other states will be admitted to practice in Michigan.

The examination and admission fees were last raised by Public Act 100 of 1989, which replaced fees established in 1980. In 1989, fees were raised from \$100 to \$175 for the bar exam; from \$50 to \$100 for reexamination; from \$125 to \$400 for admission without examination; and from \$50 to \$100 for late filings. Public Act 100 also implemented a \$100 fee for recertification and for transfer of an application.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

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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.

The bill would raise bar examination fees, and fees for admission to practice without taking the bar exam, to the level anticipated in the FY 1999-2000 Judiciary budget, albeit not until 2001. Fees have not been increased in over 10 years and are insufficient to support the activity of conducting bar exams and reviews for admission to practice law in Michigan. The bill's new fees would not begin until 2001 because many of the 2000 applicants took the bar examination in February and others have already paid fees for the July exam. It would not be appropriate to demand additional payments at this time from those applicants planning to take the exam in July.

The bill also would grant the State Supreme Court the authority to increase fees at its own initiative beginning in 2002, subject to certain caps. This would enable the Court to set the fees, but make those increases subject to limits set in statute by the Legislature. Imposing fee increases beyond those caps would require further legislation.

Opposing Argument

It seems counterintuitive to charge such a relatively high fee to an out-of-state attorney for application to practice in Michigan without taking the bar exam. This should be the easiest type of licensure to sanction, since no test is administered, but the fee is significantly higher than the bar exam fee and would be increased by a greater amount.

Response: Michigan's fee for licensure without taking the bar exam reportedly is in line with that charged in other states and reflects background checks that must be conducted. No complaints about the size of that fee have been registered by applicants because paying the fee allows them to avoid taking the examination. Moreover, if out-of-state applicants objected to the fee, they could opt to pay the smaller fee and take the bar exam.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The FY 1999-2000 Judiciary budget included an appropriation for law exam fees based on an increase in fees. Current costs of administering the bar exam are estimated at \$477,200. The current law exam fees generate \$271,200, which results in the State General Fund covering the shortage. Actual revenue from the fee increase would depend on the number of individuals taking the bar exam. Based on current projections, the fee increases in the bill would generate the additional \$206,000 necessary to cover actual costs of the bar exam.

Fiscal Analyst: B. Bowerman