

Legislative Analysis



JUDICIARY FEE PACKAGE

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4737 as enrolled
Public Act 178 of 2003
Sponsor: Rep. Steve Bieda

House Committee: Judiciary
Senate Committee: Judiciary

First Analysis (8-24-04)

BRIEF SUMMARY: The bill would amend provisions in the Revised Judicature Act pertaining to fees recently enacted by Public Act 138 of 2003.

FISCAL IMPACT: The bill would have no significant impact on the state or local units of government.

THE APPARENT PROBLEM:

Clarifying revisions are needed for court fee amendments recently put in place by Public Act 138 of 2003 (House Bill 4748). Public Act 138 was part of a package of bills to increase certain fees and consolidate assessments and state level costs that are imposed on people who commit civil infractions and criminal offenses. The 19-bill package also revised the process by which revenues generated from filing fees, assessments, and costs are distributed.

THE CONTENT OF THE BILL:

The bill would not only amend the fee provisions enacted by Public Act 138 of 2003, but would also add a requirement that the probate registrar charge and collect a \$15 service fee for each writ of garnishment, attachment, or execution, or for each judgment debtor discovery subpoena issued.

Public Act 138 specified that individuals making child support payments collected by the Friend of the Court of the State Disbursement Unit (SDU) must pay a fee of \$1.50 starting October 1, 2003 (an increase of 25 cents). The additional 25 cents is to be deposited in to the Attorney General's Operation Fund—created by Public Act 138. The bill would apply the 25-cent increase to fees that are assessed on or after October 1, 2003.

Public Act 138 also provided that a \$20 fee be assessed for all motions in a civil action. Under the bill, a fee would not be assessed in a case that involved a civil infraction.

The bill would delete obsolete requirements that the circuit court clerk, or the district court clerk, prepare and submit a court filing fee report to the executive secretary of the

Michigan Judges Retirement System at the same time the clerk transmits to the executive secretary the portion of certain fees collected under the act.

Previously under the act, if a person incurred a penalty for an act or omission that is not also a misdemeanor, the penalty could be recovered in a civil action. The bill specifies instead that if a person incurred a penalty, fee, or costs for an act or omission that was not also a misdemeanor, the penalty, fee or costs could be recovered in the same manner as civil monetary judgments in the same court.

MCL 600.880b et al.

ARGUMENTS:

For:

The bill makes necessary amendments to the Revised Judicature Act, as amended with the enactment of Public Act 138. For instance, that act created the Attorney General's Operation Fund and provides funding for it through a 25-cent increase in the child support collection fee. However, there was some confusion as to whether the earmark would apply to fees assessed on or before October 1, 2003 or collected on or after that date. Also, prior to the enactment of Public Act 138, the Revised Judicature Act required a \$20 motion fee for civil actions in which the amount in controversy exceeded \$10,000. Public Act 138 extended the \$20 motion fee to all civil actions regardless of the amount in controversy. This prompted some concern regarding the appropriateness of assessing the fee on civil infraction cases like the adjudication of a local code violation or a traffic violation. The bill excludes civil infractions from the fee assessment. Additionally, Public Act 138 deleted a requirement that circuit and district court clerks transmit a portion of certain fees to the executive secretary of the Michigan Judges Retirement System. The bill would delete a related outdated reporting requirement. The bill deletes this unnecessary language. Finally, the act provides that certain court-imposed penalties may be recovered in a civil action, and the bill extends that provision to include fees and court costs also.

Legislative Analyst: M. Wolf
Fiscal Analysts: Marilyn Peterson
Kyle Jen

■ 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.