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BILL



ANALYSIS

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House Bill 4737 (Substitute S-1 as reported)
Sponsor: Representative Steve Bieda
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 9-17-03

RATIONALE

It has been suggested that, for purposes of clarification, some revisions be made to court fee amendments that were enacted by Public Act 138 of 2003 (House Bill 4748). Public Act 138 is part of a package of legislation that will, effective October 1, 2003, increase certain fees and consolidate assessments and State-level costs imposed on people who commit civil infractions and criminal offenses. The 19-bill package also revises the processes for distributing revenue generated by filing fees, assessments, and costs.

CONTENT

The bill would amend provisions of the Revised Judicature Act (RJA) pertaining to fees enacted by Public Act 138 of 2003. The bill would do all of the following:

- **Include the filing of a writ in the requirement that a fee be paid for certain probate court filings.**
- **Specify that the requirement that a portion of a child support collection fee be deposited into the new Attorney General's Operation Fund would apply to fees assessed on or after October 1, 2003.**
- **Provide that a district court motion fee could not be assessed in a civil infraction action.**
- **Delete requirements that court clerks submit certain reports to the executive secretary of the Michigan Judges Retirement System.**

The bill also specifies that certain fees and costs, as well as penalties, could be recovered in the same manner as civil judgments.

The bill would take effect on October 1, 2003.

Under the RJA, except as otherwise provided by law, after a civil action or proceeding is commenced in the probate court, a party filing a motion, petition, account, objection, or claim must pay a fee of \$15. Under Public Act 138, that fee will go up to \$20 effective October 1, 2003. The bill would include the filing of a writ in that fee requirement.

Under Public Act 138, the monthly fee paid by individuals making child support payments collected by the Friend of the Court or State disbursement unit (SDU) will increase from \$1.25 to \$1.50, as of October 1, 2003. The additional 25 cents must be deposited into the Attorney General's Operations Fund created by Public Act 138. The bill would apply that requirement to fees assessed on or after October 1, 2003.

The RJA provides that, if the amount in controversy in a civil action filed in district court exceeds \$10,000, a sum of \$20 must be assessed for all motions filed in that civil action. Under Public Act 138, the \$20 assessment for filing motions will apply for all motions filed in a civil action in district court, regardless of the amount in controversy. House Bill 4737 (S-1) specifies that a motion fee could not be assessed in a civil infraction action.

The bill would delete requirements that the circuit court clerk and 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 RJA.

(Public Act 138 deleted the requirement that the court clerks transmit portions of certain fees to the executive secretary of the retirement system.)

Under the RJA, unless otherwise provided for by law, if a person incurs a penalty for an act or omission that is not also a misdemeanor, the penalty may be recovered in a civil action. The bill specifies instead that, unless otherwise provided for by law, 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 judgments for money in the same court.

MCL 600.880b et al.

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

Some proponents of the court fee amendments enacted earlier this year have recommended that changes be made to some of the revisions enacted by Public Act 138 of 2003 before that Act takes effect on October 1. For instance, Public Act 138 creates the Attorney General's Operations Fund, provides for a 25-cent increase in the child support collection fee, and requires the 25 cents to be transmitted to the State Treasurer for deposit into the new Fund. There reportedly is some uncertainty, though, as to whether the 25-cent increase and its dedication to the Fund apply to fees *collected* on or after October 1, or to fees *assessed* on or after October 1. Under the bill, the requirements clearly would apply to fees assessed on or after that date.

Public Act 138 also extends a \$20 motion fee to all civil actions filed in district court beginning on October 1, 2003. Currently, the RJA requires the motion fee to be assessed only if the amount in controversy in a civil action exceeds \$10,000. Extending that fee to all civil actions raised the question of whether the motion fee will be required in a civil infraction action, such as the adjudication of a local code violation or traffic violation. The bill specifies that a motion fee could not be assessed in a civil infraction action.

Also, Public Act 138 deletes requirements that circuit and district court clerks transmit a portion of certain fees to the executive secretary of the Michigan Judges Retirement System. The RJA, however, also requires that the court clerks prepare and submit to the executive secretary a court filing fee report at the same time the clerks transmit the fees. The bill would remove the now-unnecessary reporting requirement.

In addition, the RJA provides that certain court-imposed penalties may be recovered in a civil action. The bill would extend that provision to fees and costs.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the State or local units of government. The bill would eliminate provisions that became obsolete due to fee legislation enacted in July 2003, and would clarify the application and distribution of fees. The July 2003 legislation will increase revenue for the judiciary and other criminal justice agencies by raising civil filing fees, motion fees, and civil infraction assessments.

The bill would not affect the revenue estimate related to the July 2003 legislation.

Fiscal Analyst: Bill Bowerman

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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.