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BILL ANALYSIS

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Senate Bill 1104 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Alan L. Cropsy  
Committee: Judiciary

Date Completed: 5-19-06

### **RATIONALE**

The Revised Judicature Act (RJA) specifies the rates that newspapers may charge for publishing legal notices, such as mortgage foreclosures and probate notices, or orders, citations, summonses, advertisements, and other matters arising out of court proceedings that are required by law to be published. The statutory rates are based on a cost per "folio" (or approximately 100 words) and were last amended in 1996. At that time, a provision to allow the rates to be increased by the rate of inflation was added to the RJA, but that indexing was authorized for only three years. Consequently, the rates have not been increased since 1999, even though the consumer price index (CPI) adjusted rate

has gone up 18% since then and the cost of newsprint and ink has increased each year. Some people believe that the allowable statutory rates should be raised and that they should be indexed for inflation on a permanent basis.

### **CONTENT**

The bill would amend the Revised Judicature Act to increase the fees for publishing a legal notice or an order, citation, summons, advertisement, or other matter arising out of judicial proceedings required by law to be published in a newspaper, and authorize the rates to be increased annually by the rate of inflation, as shown in Table 1.

Table 1

Notice	Current Fee <sup>a)</sup>	Proposed Fee <sup>b)</sup>
Max. cost per folio for first insertion	\$15.00	\$20.50
Max. cost per folio for each subsequent insertion	\$5.85	\$8.45
Min. allowable cost for a notice that must appear at least twice	\$42.50	\$59.00
Min. allowable cost for a notice that must appear only once	\$31.60	\$44.00
<sup>a)</sup> The RJA provides that each year for three years, beginning June 1, 1996, the rates must be adjusted by the increase in the rate of inflation, as measured by the Detroit CPI. <sup>b)</sup> The bill specifies that each year, beginning June 1, 2007, the rates would have to be adjusted by the increase in the U.S. CPI for the preceding calendar year, and rounded to the nearest multiple of five cents.		

MCL 600.2534

## **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**

The fees that newspapers may charge for publishing legal notices that are required by law to be published are set in statute. Since those statutory provisions were last revised in 1996 and the provision for inflationary indexing added at that time applied for only three years, the fees have been unchanged since 1999. Costs associated with publishing a newspaper have continued to increase over that time, but publishers have not been allowed to raise their rates for running the legal notices. Increasing the statutory fees and providing for them to be raised annually by the rate of inflation would allow newspapers adequately to cover their cost of publishing the mandated notices and make it unnecessary to amend the fee provision on a continuing basis.

### **Opposing Argument**

Raising these rates, which are paid by parties to the cases, could make this service less available to people of limited financial means. The legal system already is difficult for many people to enter into and navigate, and the bill could pose another burden.

**Response:** Even with the proposed increase, the publishing fees represent a relatively small cost compared with other expenses associated with the legal system. In the event of indigency, the court can bear the cost of publication.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bill would have a minimal fiscal impact on State and local government. Current rates for the publication of legal notices vary considerably across different newspapers, so it is difficult to determine the costs in any given case. These costs are borne by the parties in the majority of cases. There would be an increase in court costs for cases in which a party is indigent. The State or a local unit of government also would experience an increase in costs in cases in which it is a party. It is difficult to determine the total number of cases the bill would affect.

Fiscal Analyst: Stephanie Yu

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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.