

Legislative Analysis



FEE FOR PUBLICATION OF LEGAL NOTICES: ALLOW ANNUAL INCREASES FOR INFLATION

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House Bill 5522 without amendment as reported
Sponsor: Rep. Peter J. Lucido
Committee: Judiciary
Complete to 10-27-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

The bill allows the rates established in statute for the maximum fee that a newspaper may charge to publish legal notices to be adjusted annually for inflation.

The Revised Judicature Act establishes 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. Beginning March 1, 2008, the fees were required to be adjusted each year by the percentage increase in the U.S. Consumer Price Index (CPI), but only for five years.

House Bill 5522 removes the five-year restriction to allow the fees to be adjusted annually for inflation. The bill also updates the language in the statute for clarity.

MCL 600.2534

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the state and on local units of government due to rates being adjusted annually under the bill. These costs are typically paid by the parties in a majority of the cases. Court costs would increase in cases in which indigent parties were publishing, and costs would increase for state and/or local units in cases where the state or local unit was the party publishing.

BRIEF DISCUSSION OF THE ISSUES:

Certain legal notices are required by law to be published in newspapers. The Revised Judicature Act specifies the maximum rates that newspapers may charge public and private entities to publish legal notices for such things as mortgage foreclosures, probate notices, citations, and other matters arising out of court proceedings. The rates are based on a cost per "folio" (approximately 100 words). The bill eliminates a sunset that, since 2013, has restricted the maximum amount newspapers can charge for printing these notices. Since then, the cost of ink, paper, and printing have all increased, as well as costs in general to publish a newspaper. Removing the sunset and thus allowing the maximum rates to be raised annually by the rate of inflation will allow newspapers to more adequately cover their cost of publishing the mandated notices.

Supporters say there are compelling reasons to continue to require legal notices to be published in print. A substantial portion of the population still do not own computers, use computers, and/or have access to computers or the Internet and would not be able to see such notices if only available in online formats. In addition, newspapers are generally archived by libraries via microfilm and thus the notices are preserved as an independent and authentic record of various court and governmental actions which can be useful should a need arise in the future to access them.

These rates are generally paid by an entity that is a party to a legal action. If the party responsible to publish the notice is indigent, the court typically bears the cost of publication. The publishing fees represent a small cost compared to other expenses associated with a legal matter, and eliminating the sunset should not overly burden parties to a legal matter or taxpayers when a governmental unit is the party responsible to publish the notice. Further, many newspapers charge well under the maximum amount allowed by the statute.

Simply put, say its advocates, the bill allows a fair method for reasonable increases to be made to the maximum amount newspapers may charge for printing the notices by tying the maximum fee to the rate of inflation.

POSITIONS:

A representative of the Detroit Legal News testified in support of the bill and indicated support for the bill. (5-24 and 9-13-16, respectively)

The Michigan Press Association indicated support for the bill. (5-24 and 9-13-16)

Coalition for Public Notice indicated support for the bill. (9-13-16)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.