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BILL ANALYSIS

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Senate Bill 1252 (as passed by the Senate)  
Sponsor: Senator Michael Switalski  
Committee: Judiciary

Date Completed: 7-9-04

### **RATIONALE**

The Michigan Supreme Court has authorized the Michigan Court of Appeals to use differentiated case management in an effort to increase the efficiency of the Court of Appeals in disposing of cases. Administrative Order 2002-5 of the Michigan Supreme Court states, "The Court of Appeals is engaged in a delay-reduction initiative, with the goal of disposing of 95 percent of its cases within 18 months of filing beginning in October 2003." The Order authorizes the Court of Appeals to give precedence on the session calendar to any appeals that the Court of Appeals determines are appropriate for differentiated case management (described below in **BACKGROUND**).

One aspect of achieving the efficiencies expected with differentiated case management is the expeditious transcription of court records. That service is provided by court reporters or recorders, who are entitled to fees specified in the Revised Judicature Act. Those fees, however, have not been increased since 1986 and may not be sufficient for court reporters and recorders to give priority to records for particular cases, or to cover the cost of subcontracting the work so that it can be completed quickly. It has been suggested that the Supreme Court be statutorily authorized to increase the transcription fee for certain cases that are part of differentiated case management.

### **CONTENT**

The bill would amend the Revised Judicature Act to authorize the Supreme Court to increase the payment due to circuit court reporters or recorders for transcripts

ordered and timely filed for appeals of certain civil cases.

Under the Act, circuit court reporters or recorders are entitled to \$1.75 per original page and 30 cents per page for each copy of a transcript ordered by any person, unless a lower rate is agreed upon. For a transcript ordered by the circuit judge, reporters and recorders are entitled to receive the same compensation from the county.

The bill would add that the Supreme Court, by administrative order or court rule, could authorize the payment to circuit court reporters or recorders of \$3 per original page and 50 cents for each copy for transcripts ordered and timely filed as part of a program of differentiated case management for appeals of civil cases in which circuit courts either granted or denied summary disposition. If a transcript ordered under such a program were not timely filed, the reporter or recorder would not be entitled to receive the increased rate for that transcript.

MCL 600.2543

### **BACKGROUND**

According to the U.S. Department of Justice Bureau of Justice Assistance (BJA), differentiated case management "is a technique courts can use to tailor the case management process to the requirements of individual cases...[and] provides a mechanism for processing each case in accordance with the timeframe and judicial system resources required. Thus, each case can move as expeditiously as possible toward disposition, rather than waiting in

line" (Bureau of Justice Assistance Fact Sheet, November 1995). In addition, the BJA has reported that differentiated case management provides greater certainty in scheduling; results in more efficient use of resources; provides for increased coordination and cooperation among agencies in the justice system; and improves the quality of the judicial process.

## **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**

According to the Case Management Work Group of the Michigan Supreme Court and the Michigan Court of Appeals, Administrative Order 2002-5 "has provided the flexibility to modify the traditional plan" of case management, without focusing "solely on advancing the shorter, younger cases" (Case Management Work Group First Report, February 17, 2004). Securing court transcripts in a timely manner is crucial to the efficient handling of cases. By authorizing the Supreme Court to offer a financial incentive to court reporters and recorders to transcribe the records of summary dispositions in civil cases quickly (within 28 days, rather than the usual 91 days, according to Judiciary Committee testimony), the bill would assist the Court of Appeals in reducing delays and disposing of its cases more efficiently than it has in the past.

### **Supporting Argument**

If the Supreme Court did increase the fees, as allowed by the bill, there would be no public cost (except to the extent a governmental entity was a party to a case). Individual litigants are responsible for paying the transcription fees in their civil cases and they would be responsible for the increased rates as well.

### **Opposing Argument**

Since the rate paid to court reporters and recorders for transcripts of court records has not been increased in 18 years, the bill should increase the per-page rate for all transcriptions regardless of the type of case or whether it was involved in a program of differentiated case management.

**Response:** Counties end up paying the fee in many criminal cases because the defendants often are indigent. An across-the-board increase in the transcription fees would place a financial burden on counties at a time when their budgets are tight. In addition, a general increase could violate Article IX, Section 29 of the State Constitution (part of the so-called "Headlee Amendment") since it might amount to a State-mandated cost to the counties.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

Civil litigants would incur the additional costs of increased transcript fees under the circumstances specified in the bill, so there would be no cost to either the State or local court funding units, unless either was a party in an applicable case. To the extent that it would promote timely filing and the success of case management programs, the bill could provide for administrative efficiencies and related savings for the Judiciary.

Fiscal Analyst: Bethany Wicksall

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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.