



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5028 (Substitute H-1 as passed by the House)
House Bill 5029 (Substitute H-1 as passed by the House)
House Bill 5030 (Substitute H-1 as passed by the House)
Sponsor: Representative Klint Kesto (H.B. 5028)
Representative Kurt Heise (H.B. 5029)
Representative Amanda Price (H.B. 5030)
House Committee: Judiciary

CONTENT

House Bills 5028 (H-1), 5029 (H-1), and 5030 (H-1), in conjunction with Senate Bills 531, 532, and 533 (to which the House bills are tie-barred), would amend the Revised Judicature Act to require the collection of electronic filing fees in civil actions, and require the fees to be deposited in a proposed "Judicial Electronic Filing Fund", and require money in the Fund to be spent to support a statewide electronic filing system.

House Bill 5028 (H-1) would define terms used in the proposed provisions. In particular, "electronic filing system" would mean a system authorized by the Supreme Court after the bill's effective date for the electronic filing of documents using a portal contracted for by the State Court Administrative Office (SCAO) for the filing of documents in the Supreme Court, Court of Appeals, Court of Claims, circuit court, probate court, and district court.

House Bill 5029 (H-1) would do the following:

- Require a court clerk to collect an electronic filing system fee (an e-filing fee) in addition to a fee authorized or required by law for filing a civil action.
- Set the e-filing fee at \$25 for actions filed in the Michigan Supreme Court, Court of Appeals, Court of Claims, circuit court, and probate court.
- Require the fee to be \$5 for actions filed in the Small Claims Division of district court; \$20 for district court actions in which a claim for money damages was joined with a claim for other relief; and \$10 for all other civil actions filed in district court.
- Require a court to waive the e-filing fee if it waived payment of a fee for commencing an action because the party was indigent or unable to pay.
- Provide that a party that was a governmental entity would not be required to pay an e-filing fee.
- Allow a court or court funding unit, until December 31, 2016, to continue collecting \$2.50 or \$5 for electronic filing if it were collecting the fee on September 30, 2015.
- Allow a court to accept automated payment of any fee being paid to the court, and allow the clerk to charge the person paying the fee an automated payment service fee if the bank or other electronic commerce business charged a merchant transaction fee.
- Limit the amount of an automated payment service fee.

House Bill 5030 (H-1) would require a collected e-filing fee to be remitted by the clerk to the State Treasurer for deposit in the Judicial Electronic Filing Fund, and used to establish an electronic filing system and supporting technology.

(Senate Bill 531 (H-2) would do the following:

- Provide that an e-filing fee could not be collected later than five years after the bill's effective date.
- Allow a court to apply to the Michigan Supreme Court for access to and use of the electronic filing system and, if allowed, require the SCAO to use money from the Fund to pay for technological improvements necessary for the court to operate electronic filing.
- Allow the Supreme Court to select a qualified vendor for the electronic filing system.
- Specify that an e-filing fee would be a recoverable taxable cost.
- Provide that a court or court funding unit could not require or permit a person to file a document electronically except as directed by the Supreme Court.

Senate Bill 532 (H-1) would:

- Create the "Judicial Electronic Filing Fund" in the State Treasury, and require the State Treasurer to credit to the Fund revenue from electronic filing system fees.
- Require money in the Fund to be spent to support the implementation, operation, and maintenance of a statewide electronic filing system and supporting technology.
- Allow the Michigan Supreme Court and the SCAO, using a competitive bidding process, to develop a system to facilitate statewide electronic filing of court documents.
- Require the SCAO to administer the Fund and require the Office to be reimbursed from the Fund for all reasonable costs associated with administering these provisions.

Senate Bill 533 (H-2) provides that a court or court funding unit would be prohibited from charging a fee to retrieve and inspect a document on site, including a document that was filed electronically, but would be allowed to charge a fee to copy a document.)

The bills would take effect on January 1, 2016.

Proposed MCL 600.1985 (H.B. 5028)
Proposed MCL 600.1986 & 1985 (H.B. 5029)
Proposed MCL 600.1989 (H.B. 5030)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have no fiscal impact on local government and an indeterminate, though likely small, fiscal impact on the State. The State Court Administrative Office estimates that the cost of the statewide e-filing system would be between \$40.0 million and \$45.0 million over five years, including both the initial setup costs and ongoing costs. It is unknown what portion of the cost would be for initial setup and what portion would be needed for ongoing expenses of the system. The proposed e-filing fees would be deposited into the Judicial Electronic Filing Fund in the State Treasury to be used to pay the cost of implementation, operation, and maintenance of the e-filing system. The SCAO estimates that the fees would generate approximately \$8.3 million per year, or \$41.5 million over five years. If the money in the Judicial Electronic Filing Fund were not sufficient to pay for the system, the remainder would be paid from General Fund/General Purpose revenue.

The fees could not be collected later than five years after effective date of Senate Bill 531. After that five-year period, the balance and earnings of the Judicial Electronic Filing Fund, if any, would be used to pay the ongoing costs of the e-filing system, and the remainder of those costs would be paid from General Fund/General Purpose revenue.

Date Completed: 12-7-15

Fiscal Analyst: Ryan Bergan

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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.