

EXTEND ELECTRONIC FILING FEE SUNSET

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House Bill 4296 as reported from committee

Sponsor: Rep. Graham Filler

Committee: Judiciary

Complete to 3-20-19

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

(Enacted as Public Act 40 of 2019)

SUMMARY:

House Bill 4296 would amend the Revised Judicature Act to extend the sunset (expiration date) pertaining to collections by a court clerk of an electronic filing system fee. Instead of collections ending after February 28, 2021, the new date would be February 28, 2031, thereby allowing the fees to be collected for an additional 10 years.

MCL 600.1993

BACKGROUND INFORMATION:

2015 PAs 230 through 235 created a statewide e-filing system intended to increase efficiency and provide cost benefits not only to the state's courts, but also to attorneys and their clients when filing documents. Electronic filing fees are collected only on filings in civil actions and are waived for the indigent and also for governmental entities. Fees are collected by the state treasurer and deposited into the Judicial Electronic Filing Fund. The fund is administered by the State Court Administrative Office (SCAO) to implement, operate, and maintain the electronic filing system. SCAO is reimbursed by the fund for its costs in doing so. The public may retrieve and view on the site documents filed both manually and electronically and pay only if they choose to copy those documents. Currently, participation in the e-filing system is not mandatory, and people pay only when accessing the system.

BRIEF DISCUSSION:

Sunset provisions are typically used when an issue warrants revisiting in the future before a provision is made a permanent part of law. The electronic filing fees established by the 2015 legislation have generated approximately \$8 million, which, according to SCAO, has already been expended. To continue to expand, support, and maintain the system, and to educate people about the benefits of the e-filing system, collections will need to continue past the current sunset date. If the e-filing fees end before the system is fully operational statewide, the program will stop and benefits to the public, such as the ability of people representing themselves to use the e-filing system to file anytime, will also stop. The bill would not raise the fee amount or create new fees, but would allow the remaining money needed for a full, statewide rollout of the program to be collected.

However, some may say that extending the deadline by an additional 10 years when the current sunset date is still almost two years away defeats the purpose of sunsets—that is,

to provide legislative oversight in a timely manner to see whether that law should continue as is, be amended to address issues that have come up, or be ended because it has accomplished what was intended or has been shown to be ineffective. To allow another 12 years without such oversight may not be prudent. A shorter sunset extension would enable the legislature to review the program and decide at that time how many more years the e-filing fees would be needed to finish expanding the program to the entire state.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or on local units of government until after the year 2031. A fiscal impact to the state could occur at that time, but only if the sunset is not extended again. Under the bill, the fees would continue to be collected until February 28, 2031. After that date, if there is a balance remaining in the fund, the balance would be used to pay ongoing costs of the e-filing system. Any costs not covered by revenue in the fund would have to be paid from the general fund.

POSITIONS:

A representative of the State Court Administrative Office (SCAO) testified in support of the bill. (3-12-19)

The Prosecuting Attorneys Association of Michigan (PAAM) indicated support for the bill. (3-19-19)

The Michigan Creditors Bar Association indicated a neutral position on the bill. (3-12-19)

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