




Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 433 (Substitute S-1, Draft 1)
Senate Bill 434 (as reported)
Senate Bills 435-438 (Substitutes S-1, Draft 1)
Senate Bill 439 (Substitute S-1, Draft 2)
Senate Bills 440-451 (as reported)
Sponsors: Senator Michael Switalski (S.B. 433, 434, 436-438)
 Senator Hansen Clark (S.B. 435)
 Senator Alan L. Cropsey (S.B. 439-441, 443, & 449)
 Senator Valde Garcia (S.B. 442, 448, 450, & 451)
 Senator Cameron S. Brown (S.B. 444-447)
Committee: Appropriations

Date Completed: 5-20-03

CONTENT

Senate Bill 433 (S-1) Draft 1: The bill would amend the Michigan Vehicle Code to eliminate multiple assessments which total \$25.00 on civil infractions that violate the Vehicle Code and replace them with a single justice system assessment of \$40.00 to be transmitted to the State Treasury and deposited into the new justice system fund. (MCL 257.629e and 257.907)

Senate Bill 434: The bill would amend the Revised Judicature Act (RJA) to eliminate the \$9.00 State portion of court costs levied on municipal and State civil infractions and replace it with a \$10.00 assessment which would be sent to the State Treasury and deposited into the new justice system fund. (MCL 600.8727, 600.8729, 600.8731, 600.8733, 600.8735, 600.8827, 600.8829, and 600.8835)

Senate Bill 435 (S-1) Draft 1: The bill would amend the RJA to specify that each \$9.00 in State costs ordered on civil infractions prior to but collected by the court clerk after October 1, 2003 would be deposited in the new justice system fund rather than the current distribution which would send 45 cents to the judges retirement system, 30 cents to the legislative retirement system, \$4.25 to the court equity fund, and \$4.00 to the State court fund. After October 1, 2003, courts would order and collect one of the new assessments as required in Senate Bills 434 and 435. The bill would also establish State minimum costs of \$45.00 for each conviction of a serious misdemeanor or a specified misdemeanor and \$40.00 for each conviction for any other misdemeanor or ordinance violation as of October 1, 2003. (MCL 600.8381)

Senate Bill 436 (S-1) Draft 1: The bill would amend the Code of Criminal Procedure by adding a new section which would establish State minimum costs of \$60.00 for a felony conviction, \$45.00 for a serious misdemeanor or specified misdemeanor conviction, and \$40.00 for any other misdemeanor conviction as of October 1, 2003. The clerk would collect the payment and deposit it into the new justice system fund. The bill would also make payment of the State minimum costs a condition of probation, would require that the State minimum cost be collected out of a cash bond or bail deposit posted by the defendant, and finally would provide that the collection of payments be allocated according to Chapter XV, Section 22 of the Code of Criminal Procedure. (MCL 760.1 to 777.69)

Senate Bill 437 (S-1) Draft 1: The bill would amend the Probate Code as of October 1, 2003 to establish State minimum costs ordered in a juvenile determination of responsibility of \$60.00

for a felony, \$45.00 for a serious or specified misdemeanor, and \$40.00 for an other misdemeanor or ordinance violation. The clerk would collect the payment and deposit it into the new justice system fund. The bill would also make payment of the State minimum costs a condition of probation or supervision and would provide that the collection of payments be allocated according to Chapter XIIA, Section 29. (MCL 712A.18)

Senate Bill 438 (S-1) Draft 1: The bill would amend the RJA by increasing filing fees and revising the collection and distribution of filing fees as of October 1, 2003. See [Table 1](#) for details on the fee changes. Rather than having court clerks collect and earmark fees for different funds, the bill would send the entire State portion of the fees (other than Court of Appeals filing fees) to a new civil filing fee fund in the State Treasury, which would disperse it according to the following formula:

- State Court fund - 48.5%
- Court Equity fund - 8.2%
- Judicial Technology Improvement fund - 11.1%
- Community Dispute Resolution fund - 5.2%
- Judges Retirement System - 24.0%
- Legislative Retirement System - 1.5%
- State General Fund - 1.5%

Table 1: Senate Bill 438 Proposed Filing Fee Changes		
Fee Type	Current Fee	Proposed Fee
Court of Appeals: Filing Fee	\$250.00	\$375.00
Probate Court: Civil Filing Fee	\$100.00	\$150.00
Probate Court: Guardianship Filing Fee	\$50.00	\$100.00
Probate Court: Motion Fee	\$15.00	\$20.00
Circuit Court Family Division: Filing Fee	\$50.00	\$150.00
Circuit Court: Filing Fee	\$100.00	\$150.00
Circuit Court: Appeal from lower court	\$100.00	\$150.00
District Court: Damages \$10,000+	\$100.00	\$150.00
District Court: Damages \$1,750-\$10,000	\$52.00	\$60.00
District Court: Damages \$600-\$1,750	\$32.00	\$40.00
District Court: Damages <\$600	\$17.00	\$20.00
District Court: Controversy \$1,750-\$10,000	\$32.00	\$60.00
District Court: Controversy \$600-\$1,750	\$32.00	\$40.00
District Court: Controversy <\$600	\$17.00	\$20.00

After October 1, 2005 the filing fees would revert to their current levels. The formula would then change as follows:

- State Court fund - 64.2%
- Court Equity fund - 0.0%
- Judicial Technology Improvement fund - 0.0%
- Community Dispute Resolution fund - 4.4%
- Judges Retirement System - 27.5%
- Legislative Retirement System - 1.9%
- State General Fund - 2.0%

(MCL 600.321, 600.880, 600.880a, 600.880b, 600.1027, 600.2529, 600.5756, 600.8371, and 600.8420)

Senate Bill 439 (S-1) Drat 2: The bill would amend the RJA by adding a new section which establishes the justice system fund in the State Treasury, which would distribute \$10 multiplied by the number of traffic civil infraction assessments collected each month to the Secondary Road Patrol Fund, and then the balance of the fund monthly after October 1, 2003 as follows:

- Highway Safety fund - 24.7%
- Jail Reimbursement Program fund - 13.0%
- Michigan Justice Training fund - 13.0%
- Legislative Retirement System - 1.2%
- Drug Treatment Court fund - 2.35%
- State Forensic Lab fund - 3.9%
- State Court fund - 14.3%
- Court Equity fund - 25.55%
- State Treasurer - 1.0%
- State Court Administrative Office - 1.0%

After October 1, 2004 the formula would be changed to:

- Highway Safety fund - 24.8%
- Jail Reimbursement Program fund - 12.4%
- Michigan Justice Training fund - 12.4%
- Legislative Retirement System - 1.15%
- Drug Treatment Court fund - 2.85%
- State Forensic Lab fund - 5.6%
- State Court fund - 13.3%
- Court Equity fund - 25.5%
- State Treasurer - 1.0%
- State Court Administrative Office - 1.0%

(MCL 600.101 to 600.9948)

Senate Bill 440: The bill would amend the RJA by adding a new section which establishes the drug treatment court fund in the State Treasury administered by the State Court Administrative Office. It specifies that a remaining balance at the end of the fiscal year would remain in the fund rather than lapse to the general fund. The fund would be for the administration of, and awarding of grants for, drug court treatment programs around the State. The bill also specifies minimum eligibility requirements for drug court funding. (MCL 600.101 to 600.9948)

Senate Bill 441: The bill would amend the RJA by adding a new section which establishes the judicial technology improvement fund in the State Treasury administered by the State Court Administrative Office. It specifies that a remaining balance at the end of the fiscal year would remain in the fund rather than lapse to the general fund. The money would be used for the development and support of a statewide judicial information system with collaboration of the Supreme Court, the State Court Administrative Office, the Departments of Corrections, State Police, Information Technology, and Secretary of State, and with the Prosecuting Attorneys Association. It will also support technology improvements to enhance public service and access to local trial courts. (MCL 600.101 to 600.9948)

Senate Bill 442: The bill would amend the Crime Victim's Rights Act by including the new State minimum cost at the head of the offender payment priority schedule for the portion of payments which are not automatically sent to crime victim's. (MCL 780.766a, 780.794a, and 780.831)

Senate Bill 443: The bill would amend the Probate Code by including the new State minimum cost at the head of the offender payment priority schedule for the portion of payments which are not automatically sent to crime victim's. (MCL 712A.29)

Senate Bill 444: The bill would amend the Forensic laboratory funding act such that after October 1, 2003 the court clerks would send the forensic assessment to the justice system fund along with all other assessments rather than having to earmark it. Under SB 439, the State Treasury would then distribute the money accordingly. (MCL 12.205 and 12.206)

Senate Bill 445: The bill would amend the DNA identification profiling system act such that after October 1, 2003 the court clerks would send the State portion of the DNA assessment to the justice system assessment with all other assessments rather than having to earmark it. Under SB 439, the State Treasury would then distribute the money accordingly. (MCL 28.176)

Senate Bill 446: The bill would amend the Probate Code such that after October 1, 2003 the court clerks would send the State portion of the Juvenile DNA assessment to the justice system assessment with all other assessments rather than having to earmark it. Under SB 439, the State Treasury would then distribute the money accordingly. (MCL 712A.18k)

Senate Bill 447: The bill would amend the Penal Code such that after October 1, 2003 the court clerks would send the State portion of the DNA assessment to the justice system assessment with all other assessments rather than having to earmark it. Under SB 439, the State Treasury would then distribute the money accordingly. (MCL 750.520m)

Senate Bill 448: The bill would amend the Code of Criminal Procedure by adding payment of the State minimum costs as a condition of probation. (MCL 771.3)

Senate Bill 449: The bill would amend the Code of Criminal Procedure by including the new State minimum cost at the head of the offender payment priority schedule for the portion of payments which are not automatically sent to crime victim's. (775.22)

Senate Bill 450: The bill would amend the Corrections Code by adding payment of the State minimum costs as a condition of parole. (MCL 791,236)

Senate Bill 451: The bill would amend the Community Dispute Resolution Act to revise the funding formula. Currently GF/GP funding supports each center with a threshold funding level as well as provides additional funding to some centers based on performance measure. Filing fee revenue is dispersed to centers based on the pro rata share of available grant funds generated by court filing fees imposed in counties served by the center. SB 281 removed the balance of GF/GP funding from the community dispute resolution line and replaced it with revenue from increased filing fees. The bill would allow the State Court Administrative Office to use 35% of the filing fee revenue to establish threshold funding levels and award centers based on performance measures. The other 65% of filing fee revenue would still be used on the pro rata basis. (MCL 691.1560)

FISCAL IMPACT

Filing Fee Increases (SB 438)

According to the State Court Administrative Office (SCAO) the current filing fees in the Circuit, Probate, and District courts generate approximately \$35.3 million in revenue. \$7.7 million of this stays in the local funding unit, while \$27.6 million is sent to the State. Under the proposal, filing fee revenue would increase by over \$13 million. Of that increase approximately \$3 million would go to locals for a total of just under \$11 million and the other \$10 million would be sent to the State for a total of over \$48 million. See [Table 2](#) for a breakdown of the State portion of filing fee revenue. Of the total anticipated increase in State revenue, over \$5.6 million was

used to reduce GF/GP appropriation in the Judiciary budget, \$855,000 was added to Judges' Retirement to make up for a reduction in the State minimum cost assessment proposal, and the other \$3.3 million would represent gross increases, of which \$2.6 was appropriated to support the Judicial Technology Improvement Fund.

Table 2: State Distribution of Trial Court Filing Fee Revenue				
Recipient	Current	New	% of Formula	Increase
State Court Fund	\$17,725,000	\$18,163,250	48.5%	\$438,250
Judges' Retirement System	\$7,578,750	\$8,988,000	24.0%	\$1,409,250
Community Dispute Resolution Fund	\$1,210,000	\$1,947,400	5.2%	\$737,400
State General Fund	\$551,250	\$561,750	1.5%	\$10,500
Legislative Retirement System	\$525,000	\$561,750	1.5%	\$36,750
Judicial Technology Improvement Fund	\$0	\$4,156,950	11.1%	\$4,156,950
Court Equity Fund	<u>\$0</u>	<u>\$3,070,900</u>	<u>8.2%</u>	<u>\$3,070,900</u>
TOTAL	\$27,590,000	\$37,450,000	100.0%	\$9,860,000

In addition to raising trial court filing fees, the proposal would also increase filing fees in the Court of Appeals (COA). According to the SCAO, the additional filing fees would generate approximately \$437,500. Because filings have been down over the past few years, filing fee revenue in the COA has decreased. Although the FY 2002-03 budget is based on the receipt of \$1.57 million, anticipated revenue is only \$1,221,000, therefore creating a \$350,000 shortfall in the COA budget. The increased revenue from the COA filing fee would correct the shortfall as well as support an additional \$87,500 to the COA operations line.

By reverting the filing fees to their current levels after October 1, 2005, revenue would also be reduced back to current levels. The formula would change to redistribute available funding such that each of the funds would basically receive the same amount they receive under the current system. This would create shortfalls in the Court Equity Fund, the Judicial Technology Improvement Fund, and the Community Dispute Resolution Fund for a total reduction of approximately \$10 million. Local units would also face a revenue reduction of approximately \$3 million from the portion of the filing fee increases they would no longer receive. The Court of Appeals filing fees would also revert to current levels and again leave it with a revenue shortfall.

State Minimum Costs and the Justice System Assessment

The bills other than SB 438 would eliminate the collection of many distinct assessments and court costs, and create a single increased assessment on civil traffic infractions, and specific levels of court costs for other civil infractions, misdemeanors, and felonies. See [Table 3](#) for more detail. Trial courts would send the entire amount to the State Treasury, which would then distribute the revenue according to a formula in SB 439 to each of the previous recipients, other than the Secondary Road Patrol Fund, such that each would, at a minimum, be held harmless in the first year and would likely receive increased revenue in following years. Rather than being part of the formula, the Secondary Road Patrol would instead receive exactly \$10 multiplied by the number of traffic civil infraction assessments collected each month. Assuming the current level of 1.4 million civil infractions holds, the Secondary Road Patrol would receive \$14 million each year and would not benefit from the increased revenue built into the second and third years. See [Table 4](#) for a breakdown of the anticipated revenue for each fund under both the current and proposed system.

Table 3: Proposed Increases to State Costs and Assessments			
Offense	Current	Proposed	Projected Revenue Increase (By Year 3)
Civil Infraction: Non-traffic	\$9 Costs	\$10 Costs	\$20,000
Civil Infraction: Traffic	\$9 Costs + \$25 Assessment	\$40 Assessment	\$8,400,000
Misdemeanor: Non-serious	Avg. Of \$11.59/case in Costs but each varies	\$40 Costs	\$10,653,750
Misdemeanor: Serious or Specified		\$45 Costs	\$4,176,250
Felony		\$60 Costs	\$1,065,000
TOTAL			\$24,315,000

The SCAO estimates the proposal would potentially increase overall annual revenue by approximately \$14.4 million in the first year and as much as \$24.3 million by the third year. The difference in increased revenue between years 1, 2, and 3 is caused by the lag between when the assessments or costs are ordered and actually collected. During the first year of the proposal, of the increased State revenue, \$6.3 million would fund new troopers in the Michigan State Police (MSP) Highway Safety Fund, \$5.85 million would replace GF/GP in the Court Equity Fund, \$1.2 million would be used for additional drug court funding, \$1.2 million would be split between the Department of Treasury and the SCAO for collections costs, fund administration, and audit, and \$400,000 would increase support for the Forensic Lab and DNA collection.

Table 4: Current and SB 439 (S-1) Draft 2 Proposed Revenue Allocation						
State Agency/Fund	Current Revenue	Proposed Revenue Year 1	Percent Year 1	Proposed Revenue Year 2	Percent Year 2+	Proposed Revenue Year 3+
MSP-Highway Safety Fund	\$7,000,000	\$13,402,834	24.7	\$14,757,956	24.8	\$15,907,960
DOC- County Jail Reimbursement	\$7,000,000	\$7,054,123	13.0	\$7,378,978	12.4	\$7,953,980
MSP-Secondary Road Patrol	\$14,000,000	\$14,000,000	0.0	14,000,000	0.0	\$14,000,000
MSP-Justice Training Fund	\$7,000,000	\$7,054,123	13.0	\$7,378,978	12.4	\$7,953,960
MSP-Forensic Lab	\$1,500,000	\$2,116,237	3.9	\$3,332,442	5.6	\$3,592,120
MSP-DNA Fee	\$200,000	Would now be included above with the Forensic Lab Fee				
Legislative Retirement Fund	\$570,000	\$651,150	1.2	\$684,341	1.15	\$737,668
Judges' Retirement	\$855,000	Replaced by Filing Fee Revenue under SB 438.				
Drug Court Fund	\$0	\$1,275,168	2.35	\$1,695,975	2.85	\$1,828,133
State Court Fund	\$7,600,000	\$7,759,536	14.3	\$7,914,549	13.3	\$8,531,285
Court Equity Fund	\$8,075,000	\$13,921,816	25.55	\$15,174,512	25.5	\$16,356,975
Administration: Treasury & SCAO	\$0	\$1,085,250	2.0	\$1,190,158	2.0	\$1,282,900
TOTAL	\$53,800,000	\$68,262,487	100.0	\$73,507,889	100.0	\$78,145,001

Local units of government may also benefit under the proposal. Under the current system, when a court orders payment of court costs, the first \$9.00 automatically goes to the State and the balance, up to a maximum allowed under statute depending on the type of offense, is kept by the local court. Under the proposal, the State minimum costs would now be collected as a separate category of payment, and the local court would be able to keep the first \$9.00 it would have previously sent to the State from the court costs category. There is no data to indicate whether the courts will continue to order the same levels of courts costs or whether they will decrease them accordingly by the \$9.00. According to the SCAO, if they continue to order the same level of court costs, local units of government would have the potential for increasing revenue by up to \$9.1 million in the first year and as much as \$17.1 million by the third year of implementation.

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