

Legislative Analysis



SMALL CLAIMS COURT: INCREASE RECOVERY AMOUNT

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House Bill 4160 (Substitute H-1)
Sponsor: Rep. John Pastor
Committee: Judiciary

Complete to 6-20-06

A SUMMARY OF HOUSE BILL 4160 AS INTRODUCED 2-2-05

The small claims division of district court hears cases in which the claim for damages sought to be recovered is \$3,000 or less. The bill would amend the Revised Judicature Act to increase that amount to not more than \$7,500.

MCL 600.8401

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the state and local units of government. There are no statewide data to indicate how many cases would become eligible for small claims court under the bill (i.e., that are filed claiming dollar amounts between \$3,000 and \$7,500).

The bill's fiscal impact on the state and local units of government would depend on how it affected the overall and relative numbers of small claims cases (which typically are heard by magistrates) and civil cases in district court (which are heard by district court judges). Magistrates' salaries and benefits are paid by the local units, and vary between jurisdictions. Judges' salaries and retirement benefits are paid by the state, and currently cost roughly \$156,000 per district court judge; any other benefits for trial court judges are paid by the local units.

BACKGROUND INFORMATION:

The small claims process allows one party to inexpensively sue another, generally speaking, for the recovery of small debts. By avoiding legal representation, the court costs are low so as not to negate any recovery. Cases often move more quickly in small claims court compared to cases filed in district court. Currently, only cases involving \$3,000 or less can be filed in small claims court. Some believe that if this cap were raised, that many more people could benefit from the speed, efficiency, and lower costs inherent with the small claims process. In addition, district courts could then concentrate on the complex civil matters, potentially realizing greater efficiency in the process.

Opponents of the proposal feel that raising the cap to \$7,500 runs contrary to the historical nature of the small claims process. Consumers trade some due process rights

(i.e., no professional counsel, no appeals process, no discovery in some matters) for the low cost and efficiency of the small claims process. Raising the cap to \$7,500 could mean more businesses would sue in small claims court to collect on outstanding debts. Businesses that frequently used the small claims process would gain, as the State Bar of Michigan put it, "a sophistication by regular appearances . . . that works to the disadvantage of consumers, who arrive in court completely unfamiliar with the process." Furthermore, the increases in the number of cases that would now be moved to small claims courts, along with the increased numbers of unrepresented consumers unfamiliar with the legal process, would greatly burden court resources and staff. Efficiencies currently enjoyed in the small claims process could be lost and small claims court dockets become just as backlogged as in district courts.

Alternative proposals that were discussed included a more modest increase in the amount that could be recovered to reflect inflationary changes since the last increase and the approach used by California, which set a monetary amount of \$5,000 that can be recovered for businesses and a lower one for lay people.

POSITIONS:

Representatives of the Michigan Court Administrators Association testified in opposition to the bill. (6-14-06)

The State Bar of Michigan is opposed in principle to the bill. (6-14-06)

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