

May 12, 2021

Larry Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: Proposed Increase to the State Bar of Michigan's Licensing Fee

Dear Clerk Royster:

The State Bar of Michigan (SBM) recommends increasing its annual licensing fee by \$80, from \$180 to \$260, effective for the fiscal year beginning on October 1, 2022. The current licensing fee was set 18 years ago. Adjusted for inflation this amount would be \$256 today. While the 2003 licensing fee was not expected to last as long as it has, through prudent financial management, SBM has been able to strike a balance between keeping costs low and effectively fulfilling its Court-mandated mission focused on improvements in the administration of justice, advancements in jurisprudence, and relations between the legal profession and the public.

The Representative Assembly overwhelmingly approved the proposed fee increase at its April 24, 2021 meeting (100 support, 21 oppose, 4 abstain). Prior to the vote, the Representative Assembly was provided substantial documentation, which is attached for the Court's review.

We recognize that the amount requested is not insignificant and requires ample justification. We stand ready to provide further material and explanation at the Court's request.

It is our hope that the Court will publish the proposed licensing fee increase for comment and ultimately approve the increase to take effect for the fiscal year beginning on October 1, 2022.

Sincerely,



Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Chelsea M. Rebeck, Representative Assembly Chair
Robert J. Buchanan, President

RECOMMENDATION ON STATE BAR OF MICHIGAN MEMBER DUES FOR 2022-23

Issue

Pursuant to its exclusive authority under Supreme Court Rules Concerning the State Bar of Michigan, should the Assembly recommend that the annual membership dues of \$180 for active licensed attorneys be increased by \$80 to \$260, starting with the fiscal year that begins October 1, 2022?

Proponent

Chelsea Rebeck, Chair of the Representative Assembly
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Nicholas M. Ohanesian, Vice-Chair of the Representative Assembly
[Social Security Administration, 1925 Breton Rd. SE., Ste. 200, Grand Rapids, MI 49506
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Gerrow D. Mason, Clerk of the Representative Assembly
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Synopsis

The current SBM member dues amount of \$180 was set in 2003. Adjusted for inflation, that amount would be \$256 today. Michigan's attorney licensing fees currently are below the national average. With the proposed increase, Michigan would be in the middle tier or lower nationally for the eight-year period that the fee cycle is expected to last. Although in the normal course of events an increase would have been required much earlier, prudent fiscal management has enabled SBM to carry out its mandated functions as defined by statute and court rule in accordance with the SBM strategic plan for 18 years. Recognizing the extreme stress that COVID-19 has placed on many attorneys, SBM has undertaken extraordinary measures to extend its operations under the current member dues revenues for yet another bar year; however, to carry out its mandated activities and stay within SBM's financial safety margin, an increase is required no later than FY 2022-23. It is anticipated that the proposed increase would be sufficient to allow SBM to sustain its operations as currently defined and carried out and to stay within its financial safety margin through at least FY 2030-31.

Background

Additional material provided.

Prior Action by Representative Assembly

At the February 2003 meeting, the Representative Assembly recommended a license fee increase in conjunction with approval of the SBM strategic plan. At the April 2017 meeting, the Representative Assembly approved the current strategic plan upon which the proposed fee increase is based.

Fiscal and Staffing Impact on State Bar of Michigan

The proposal would allow SBM to sustain current operations and staffing levels, which generally are significantly below the levels of comparable state bars. In the absence of approval of the recommended dues increase effective FY 2022-23, SBM would need to initiate substantial staff and program reductions.

STATE BAR OF MICHIGAN POSITION
By vote of the Representative Assembly on April 24, 2021

Pursuant to its exclusive authority under Supreme Court Rules Concerning the State Bar of Michigan, should the Assembly recommend that the annual membership dues of \$180 for active licensed attorneys be increased by \$80 to \$260, starting with the fiscal year that begins October 1, 2022?

- (a) Yes
- (b) No

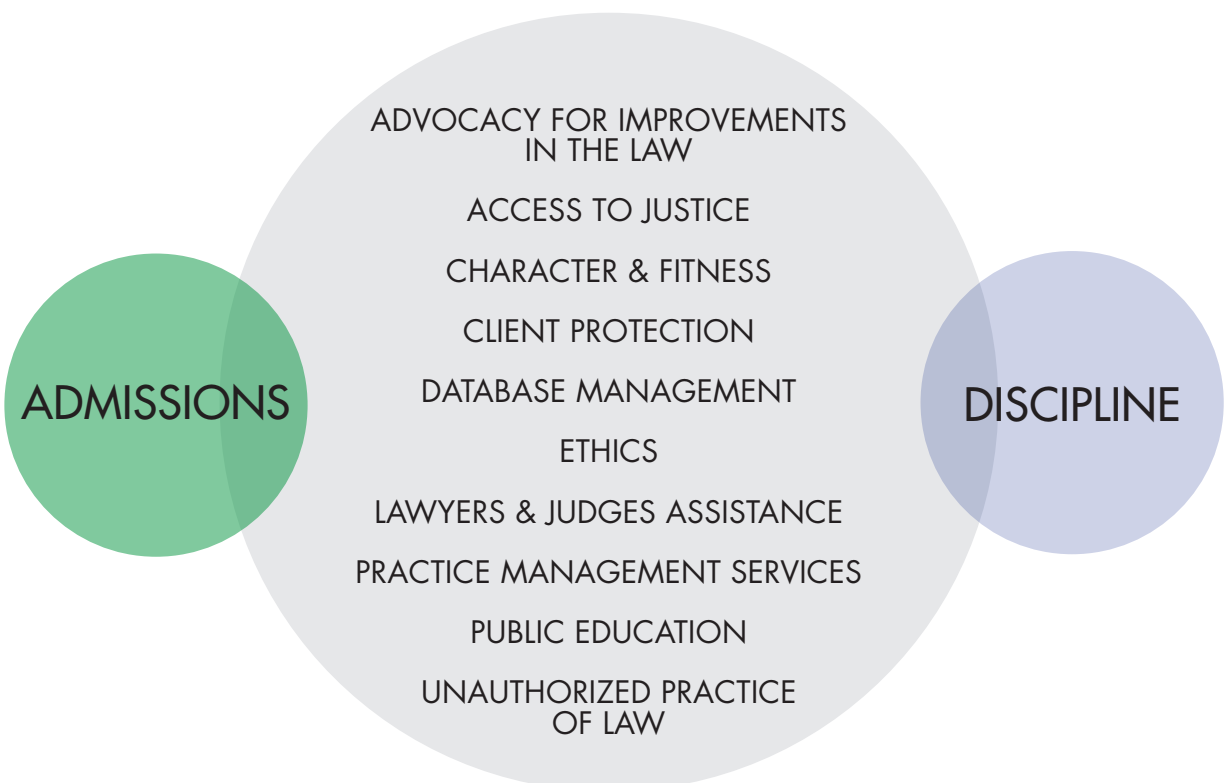


PROPOSED LICENSE FEE BACKGROUND

WHAT SBM WAS CREATED TO DO

The Michigan Supreme Court, in the first of its Rules Concerning the State Bar of Michigan, directs SBM to “aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.”

SBM FULFILLS ITS MISSION BY CARRYING OUT VARIOUS PUBLIC FUNCTIONS DEFINED BY THE SUPREME COURT AND DELIVERING ON THE GOALS WITHIN THAT MISSION OUTLINED IN THE STRATEGIC PLAN.



Goal 1: The State Bar of Michigan provides resources to help all of its members achieve professional excellence and success in the practice of law and in service to the public.

We will achieve this by:

- Strategy 1: Helping new lawyers to be practice-ready
- Strategy 2: Supporting each active member's professional competence and continuing professional development
- Strategy 3: Engaging members in learning about and implementing innovative delivery methods
- Strategy 4: Promoting greater member engagement to connect members with the bar, its resources and each other

Goal 2: The State Bar of Michigan champions access to justice and builds public trust and confidence in the justice system in Michigan.

- Strategy 1: Creating and maintaining an accessible, coordinated online foundation of legal resources for the public
- Strategy 2: Creating and maintaining greater public awareness and competence around legal issues that affect them
- Strategy 3: Expanding opportunities for SBM members to participate in access to justice initiatives through traditional means including pro bono and by partnering with public service organizations, local and affinity bars
- Strategy 4: Encouraging improved diversity and inclusion of the profession as a fundamental component of the public's respect for the rule of law and confidence and trust in the justice system
- Strategy 5: Expanding collaboration with professional organizations and communities outside of the legal community
- Strategy 6: Providing timely, targeted messages to promote understanding of the rule of law and role of judiciary and the legal profession

Goal 3: The State Bar of Michigan maintains the highest conduct among its members, and initiates and advocates for improvements that facilitate accessible, timely justice for the public.

- Strategy 1: Working with our partners to effectively regulate the legal profession in Michigan
- Strategy 2: Educating members on ethical rules and regulations
- Strategy 3: Reviewing ethical rules and regulation, and adapting them to eliminate barriers to innovation
- Strategy 4: Conducting research and development that promotes innovation and forecasts change
- Strategy 5: Pursuing permissible and achievable public policy goals, while minimizing divisiveness and encouraging member input and diverse points of view on public policy issues
- Strategy 6: Promoting respect for diversity as an important element of professionalism

Goal 4: The State Bar of Michigan structures itself to achieve its strategic goals in a responsive and cost-efficient manner.

- Strategy 1: Developing governance, member and administrative structures that provide for broad-based decision making and timely action
- Strategy 2: Employing practices that strengthen the State Bar of Michigan's fiscal position and responsible use of resources
- Strategy 3: Ensuring the technology infrastructure follows best business practices and is poised to meet the future needs of members and the State Bar of Michigan
- Strategy 4: Targeting the State Bar of Michigan's communications to build awareness of bar programs and initiatives among members and the recipient community

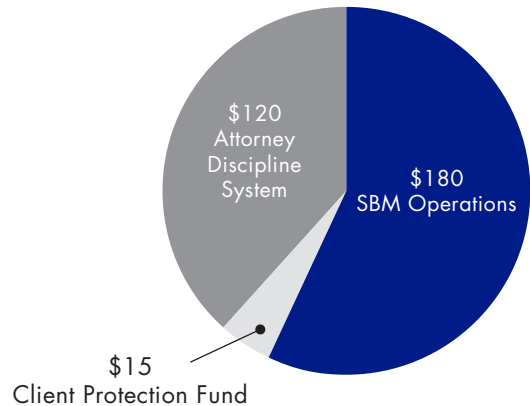
HOW LICENSE FEES ARE SET

The Michigan Supreme Court sets attorney licensing fees. The RA has the exclusive authority to make recommendations to the Michigan Supreme Court concerning changes to SBM's portion of the licensing fee.

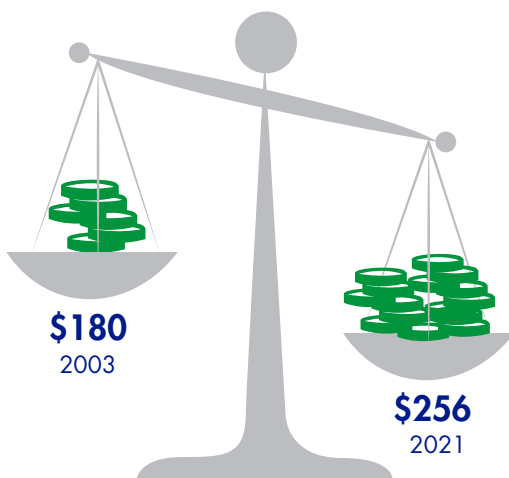
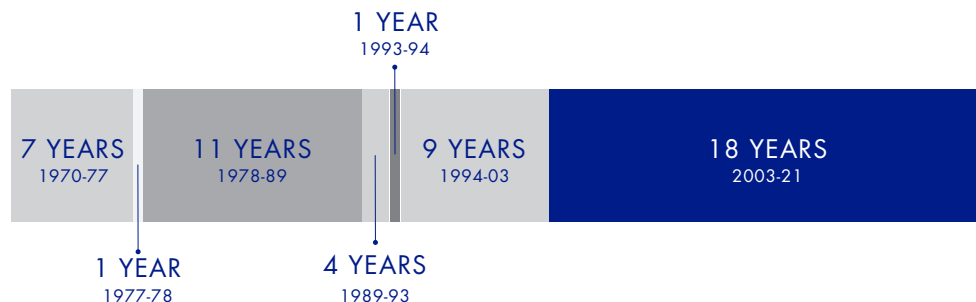
CURRENT FEES: \$315

ADOPTED IN FISCAL YEAR 2003-04

Active attorneys pay a \$315 annual fee, \$180 of which supports SBM operations. SBM's portion of the fee has not been changed since 2003. When the last fee increase was adopted, it was expected to only last until 2010.



THIS HAS BEEN THE LONGEST FEE CYCLE IN MODERN HISTORY



42% CUMULATIVE INFLATION SINCE THE LAST FEE INCREASE

WITH INFLATION, THE \$180 FEE SET IN 2003 WOULD BE **\$256 TODAY.**

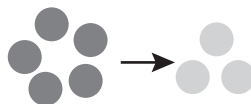
HOW HAS THE STATE BAR MAINTAINED AND IMPROVED THE QUALITY OF ITS OPERATIONS AND PROGRAMS BELOW INFLATION FOR OVER 18 YEARS?



CAREFUL FINANCIAL
MANAGEMENT



AUTOMATION



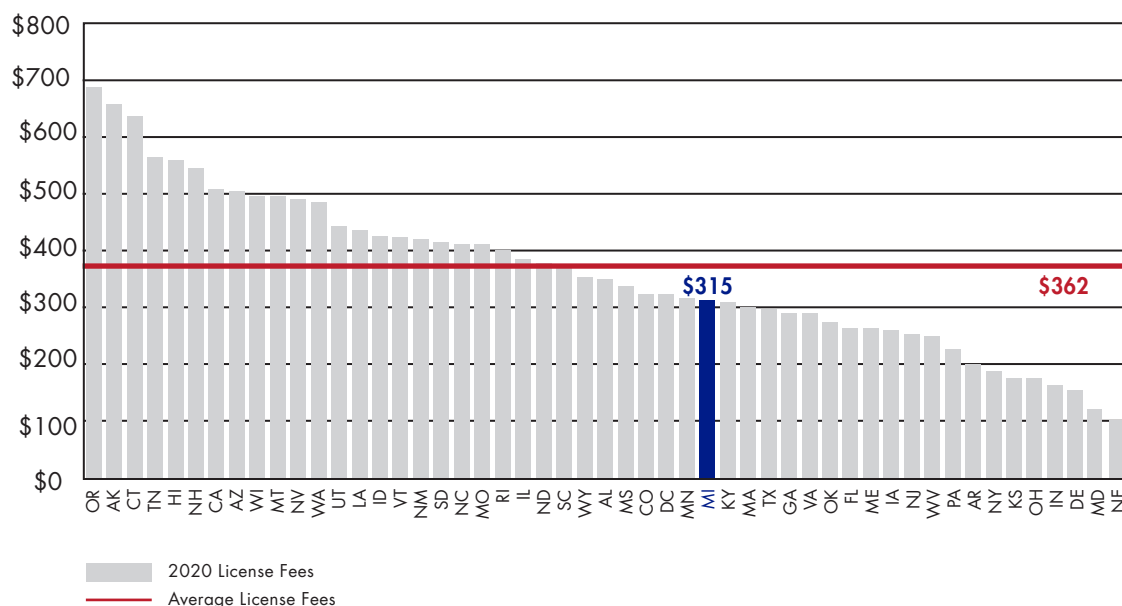
DOWNSIZING WHERE
APPROPRIATE



RESPONDING TO CHANGING
MEMBER PRIORITIES

MICHIGAN'S TOTAL LICENSE FEE IN COMPARISON TO OTHER STATES

Michigan's attorney licensing fees are below the average of attorney license fees nationally.

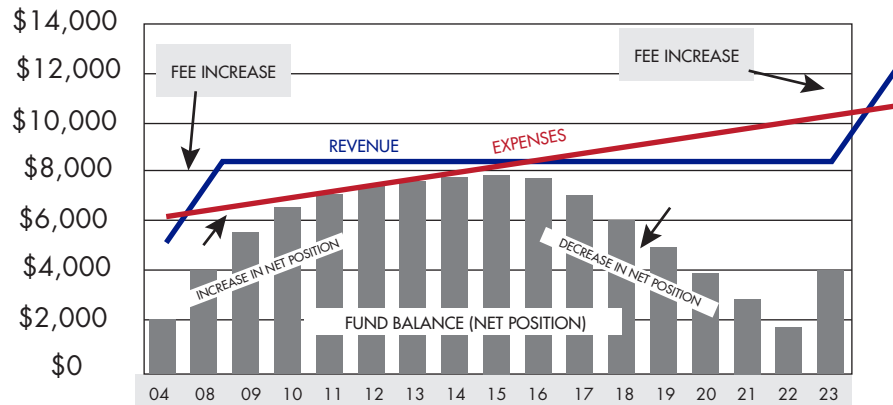


CURRENT FINANCIAL POSITION WITHOUT A FEE INCREASE

At this point in the current fee cycle, expenses will exhaust SBM's fund balance revenue without a fee increase.

ILLUSTRATION OF THE FEE CYCLE

REVENUE, EXPENSES & FUND BALANCE (IN '000'S)



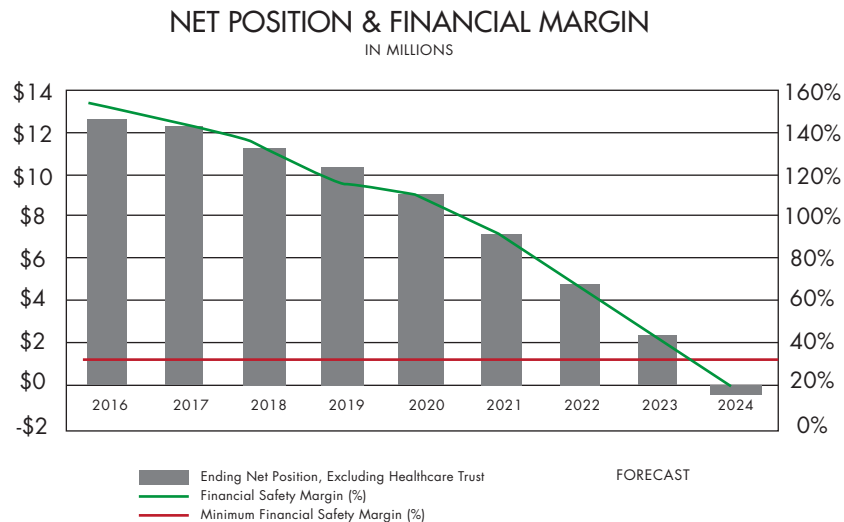
RECENT COST-SAVING MEASURES

- SBM responded throughout the pandemic to re-deploy and conserve assets.
- FY 2019-20 spending was \$1,148,369 under budget due to reductions in meeting, travel, postage, printing, and labor costs.
- During the current fiscal year, SBM has implemented additional cost-saving measures such as changing the *Bar Journal* and bar cards to opt-in and moving the Resource Directory online (est. \$71k), based on feedback from members.

FINANCIAL ASSUMPTIONS FOR FISCAL YEAR 2021-22 AND BEYOND

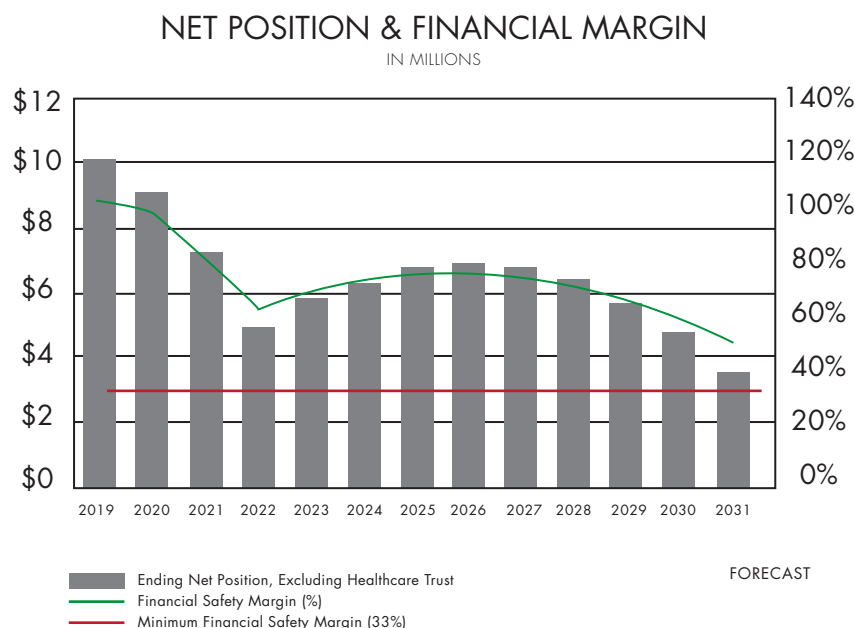
- The number of active attorneys is expected to decrease slightly compared to the FY 2020-21 budget (0.1%).
- Non-fee revenues will remain flat.
- Costs will grow at an inflation rate of 2%.
- SBM will continue to have a financial safety margin (defined by cash, investments, and building value) of at least 33% of the annual budget.
- Assumptions are subject to continuous review and adjustments based on changes in economic conditions, especially labor market, inflation, and interest rates.

CURRENT FINANCIAL POSITION WITHOUT A FEE INCREASE



IN ORDER TO MAINTAIN OUR MISSION AND STRATEGIC PLAN FOR THE NEXT EIGHT YEARS, AN \$80 INCREASE TO THE SBM PORTION, BEGINNING OCTOBER 1, 2022, IS NECESSARY.

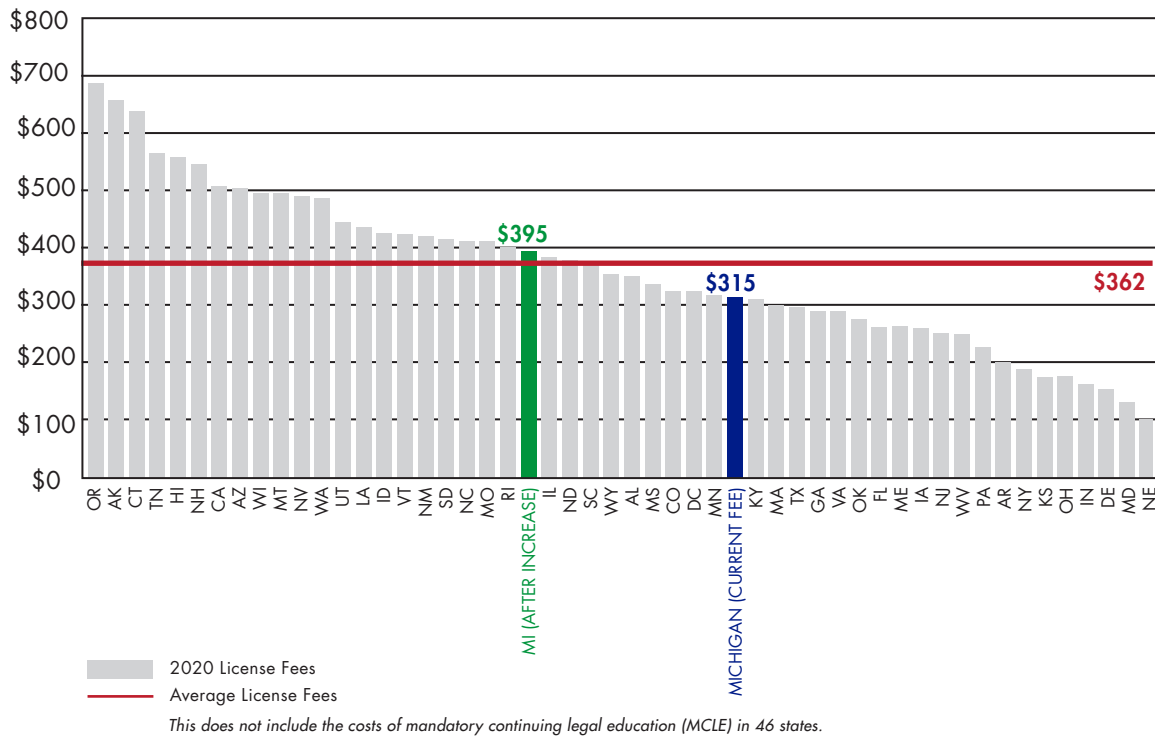
FINANCIAL POSITION WITH ONE-TIME FEE INCREASE OF \$80





MICHIGAN LICENSE FEE WITH PROPOSED INCREASE IN COMPARISON TO OTHER STATES

With the proposed increase, Michigan would be in the middle tier of license fees nationally.



BASED ON SBM'S LONG HISTORY OF CAREFUL FINANCIAL STEWARDSHIP, AN INCREASE OF \$80 TO THE SBM PORTION OF THE LICENSE FEE BEGINNING IN FY 2022-23 WILL ENSURE A STRONG FINANCIAL POSITION FOR YEARS TO COME.

It is anticipated that the proposed increase would be sufficient to allow SBM to sustain its operations and to stay within its financial safety margin through at least FY 2030-31.

Frequently Asked Questions About the Proposed License Fee Increase

Like all states, Michigan requires attorneys who practice in the state to pay an annual license fee. The fee consists of three separate amounts set by the Michigan Supreme Court to fund the Attorney Discipline System, the Client Protection Fund, and State Bar of Michigan operations.

The Representative Assembly has exclusive authority on behalf of the State Bar to recommend to the Court a change in the SBM portion of the licensing fee. At their April 24, 2021, meeting the RA will vote on whether to recommend to the Court an increase of \$80 to the SBM portion of the fee. Currently, the SBM portion of the fee is \$180.

Below you'll find answers to common questions about the proposed license fee increase.

Why now? It's been a difficult year for everyone.

The license fee has not increased (even to account for inflation) since 2003, when today's 1Ls were in kindergarten. At that time, nearly two decades ago, the increase was expected to sustain the State Bar for several years, but nothing indicated it would turn into the longest fee cycle in SBM's modern history. That feat was only made possible through careful financial management by the State Bar. Now, however, the current fee cycle has reached its natural –and overdue – conclusion. Recognizing the extreme stress that COVID-19 has placed on many members of the bar, SBM has undertaken extraordinary measures to extend its operations and will do so for another bar year, meaning the proposed license fee increase would not take effect until the 2022-2023 bar year.

Why can't the increase be gradual?

A gradual increase would require an overall larger increase over the same time span.

What will this money be used for?

The money from the license fee increase will be used to maintain SBM's current level of service to the public and members, both of which are crucial to fulfilling the goals of [the State Bar's Strategic Plan](#). While SBM collects the entire license fee on behalf of the Court, only a portion of it remains with the State Bar. That portion funds the operation of the State Bar to assist in the regulation of the legal profession and improve the quality of legal services available to Michiganders. The rest of the license fee is used to fund the Attorney Discipline System and the Client Protection Fund.

How does Michigan's attorney license fee compare to other states?

Michigan's \$315 cost of licensure falls below the \$367 national average. With the proposed increase, Michigan would remain in the middle tier of license fees nationally.

What has SBM done to save money?

The State Bar of Michigan has automated manual transaction processes and member interactions such as license renewal, pro hac vice applications, and new member applications. Paper, printing, and mailing costs have been reduced by not mailing license fee statements, no longer printing the alphabetical directory, providing a voluntary opt-out of bar cards and the printed *Bar Journal*, and using more electronic communication. Staffing levels and benefits have been carefully controlled. The downsizing and restructuring of the SBM annual meeting are the most recent examples of cost-saving changes.

What would happen if there's not an increase?

Without an increase, SBM simply will not be able to sustain its current level of service to the public and members.