



Report on Public Policy Position

Name of Section:

Appellate Practice Section

Contact Person:

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Bill Number:

SB 33 (Switalski) Civil procedure; costs and fees; transcript fee; increase. Amends sec. 2543 of 1961 PA 236 (MCL 600.2543).

Date position was adopted:

March 18, 2005

Process used to take the ideological position:

Discussion and analysis during the Appellate Practice Section's February 17, 2005 and March 18, 2005 council meetings.

Number of members in the decision-making body:

23

Number who voted in favor and opposed to the position:

15 voted in favor; 1 opposed; 1 abstained

FOR SECTIONS ONLY:

- This subject matter of this position is within the jurisdiction of the section.
- The position was adopted in accordance with the Section's bylaws.
- The requirements of SBM Bylaw Article VIII have been satisfied.

If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.

Position:

The Appellate Practice Section Council of the State Bar of Michigan supports Senate Bill No. 33, which amends MCL 600.2543 to increase the page rate circuit court reporters or recorders may receive. As explained below, the Section Council also recommends that the proposed amendment to MCL 600.2543(1) include the following language: "The Supreme Court, by administrative order or court rule, may itself, or may allow the Court of Appeals to, reduce the page rate when appeal transcripts are not timely filed."

The equities for supporting a rate increase for official court reporters and recorders are compelling and unavoidable. Last year, in P.A. 2004, No. 328, the Legislature authorized the Supreme Court to increase the page rate in MCL 600.2543 for timely filed transcripts in civil summary disposition appeals. SB 33 correctly recognizes that a page rate increase for circuit court reporters and recorders in all cases is long overdue.

The Legislature has not increased the general page rate for appellate transcripts in MCL 600.2543 since 1986. Over the past 18 years, the unchanged page rate for Michigan's official court reporters/recorders has dipped far below the rate their freelance and federal court counterparts receive.

Aside from simple fairness, passage of SB 33 will serve the better administration of justice. Timely preparation of accurate trial court transcripts is essential to the appellate process. Without quality transcripts, litigants cannot adequately present and judges cannot properly decide issues on appeal.

Over the past several years, appellate lawyers have become increasingly concerned with the state of official court reporting/recording. Systematically asked to do more for the same, antiquated page rate, the morale of many official court reporters and records has suffered. Some overworked court reporters/recorders face the dilemma of either paying substitutes to complete backlogged orders at far more than the statutory rate or receive show cause orders from the Court of Appeals.

Even more, quality court reporters and recorders, who can earn considerably more working as a freelancer or in federal court, choose not to be a Michigan official court reporter.

All circuit court reporters and recorders desperately need a rate increase. The Appellate Practice Section Council supports SB 33 in restoring compensation of official court reporters and recorders to a fair market level.

The Section Council also supports SB 33 because it paves the way for reformation of the cumbersome show cause system of enforcing appellate transcripts deadlines. For many years, the Court of Appeals has explored ways to improve the show cause system. One promising proposal is to implement a schedule reducing the page rate for delinquent transcripts.

Until all circuit court reporters and recorders receive higher page rates, financial penalties for late transcripts have not been considered fair. Many also question whether MCL 600.2543 currently authorizes the Supreme Court to reduce the statutory page rate.

Accordingly, the Section Council respectfully recommends that the amendment to MCL 600.2543(1) include the following language:

"The Supreme Court, by administrative order or court rule, may itself, or may allow the Court of Appeals to, reduce the page rate when appeal transcripts are not timely filed."

This will eliminate any doubt that the Supreme Court has the authority to reduce the page rate to enforce transcript deadlines.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

<http://www.legislature.mi.gov/mileg.asp?page=getObject&objName=2005-SB-0033>