



Report on Public Policy Position

Name of Section or Committee:

Civil Procedure and Courts Committee

Contact Person:

Ronald S. Longhofer

Email:

rlonghofer@srr.com

Bill Number:

HB 4472 (Baxter) Civil procedure; costs and fees; attorney fees in unsuccessful appeal; require state agency to pay. Amends sec. 2421c of 1961 PA 236 (MCL 600.2421c).

Date position was adopted:

4/21/05

Process used to take the ideological position:

Discussion and vote

Number of members in the decision-making body:

20

Number who voted in favor and opposed to the position:

14 in favor; 0 opposed

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:

OPPOSE, because the bill conclusively presumes that, whenever the state loses and was the only appellant, the appeal was frivolous. This presumption is irrational, and disadvantages the state vis-à-vis other litigants.

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-HB-4472>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

None provided.

Arguments against the position (if any):

None provided.

If the State Bar currently has a position on this subject matter, state the position, and an analysis of whether the recommended position and the current State Bar position are in conflict.

To date, the State Bar does not have a position on SB 33.

Fiscal implications of the recommended policy to the State Bar of Michigan:

None provided.

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys
- ✓ The improvement of the functioning of the courts
- The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller- permissible explanation:

Not provided.