



Report on Public Policy Position

Name of Committee:

Libraries, Legal Resources, & Legal Publications

Contact Person:

Randy E. Davidson

Email:

randy@sado.org

Bill Number:

HB 5390

Date position was adopted:

February 21, 2004

Process used to take the ideological position:

Notice was given by E-mail on January 30, 2004 to all Committee members that the Committee would take a position on HB 5390 at its next meeting on February 21, 2004. The notice included a link to the bill. On February 21, 2004, those present freely discussed taking a position. After all members had an opportunity to be heard and were satisfied that the matter had been thoroughly discussed, we took a vote and adopted a position.

Number of members in the decision-making body:

13 voting members

Number who voted in favor and opposed to the position:

In favor: 6

Opposed: None

Abstaining: 1

Position:

Policy position on HB 5390

Upon motion duly made by Barbara Goldman and seconded by Randy Foreman, it was

RESOLVED, that the State Bar Board of Commissioners actively oppose HB 5390 in its current form, and urge our Legislature to adopt substitute language as indicated below:

“A bill to amend 1982 PA 540, entitled ‘Library of Michigan act,’ by amending section 9 (MCL 397.19) as amended by 1983 PA 114.

“The People of the State of Michigan enact:

“Sec. 9 (1) The library shall serve as a depository for each public document issued by a state official, department, board, commission or agency. Not less than 75 copies of each document or 1 copy in the proper format as determined by the state librarian which is not issued solely for the use of a state official, department, board, commission, or agency shall be furnished to the library. A state official, department, board, commission, or agency need only file 2 paper copies of a document as required under this subsection if all of the following apply:

“(a) The document is available for free on the state of Michigan internet website.

“(b) The state librarian is given notice of the document’s availability on the state of Michigan internet website.

“(c) The notice provided under subdivision (b) includes the complete internet website address of the document.

“(2) A publication of a school, college, division, or department of a state supported college or university is exempt from the paper copy depository requirements of subsection (1), except that 2 copies of each publication not available for free on the school’s

internet website shall be deposited in the library.

“(3) A publication of a state supported college or university press, directive for internal administration, an intraoffice or interoffice memorandum, a state form, or other correspondence is exempt from the depository requirements of subsection (1).”

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:

HB 5390, which passed the House on February 19, 2004, reads as follows:

“A bill to amend 1982 PA 540, entitled ‘Library of Michigan act,’ by amending section 9 (MCL 397.19) as amended by 1983 PA 114.

“The People of the State of Michigan enact:

“Sec. 9 (1) The library shall serve as a depository for each public document issued by a state official, department, board, commission or agency. Not less than 75 copies of each document or 1 copy in the proper format as determined by the state librarian which is not issued solely for the use of a state official, department, board, commission, or agency shall be furnished to the library. A state official, department, board, commission, or agency does not have to file paper copies of a document as required under this subsection if all of the following apply:

“(a) The document is available for free on the state of Michigan internet website.

“(b) The state librarian is given notice of the document’s availability on the state of Michigan internet website.

“(c) The notice provided under subdivision (b) includes the internet website address where the document can be located.

“(2) A publication of a school, college, division, or department of a state supported college or university is exempt from the paper copy depository requirements of subsection (1), except that 2 copies of each publication not available for free on the school’s internet website shall be deposited in the library.

“(3) A publication of a state supported college or university press, directive for internal administration, an intraoffice or interoffice memorandum, a state form, or other correspondence is exempt from the depository requirements of subsection (1).”

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

We are concerned that archiving of electronic documents has not developed to that point that we can be confident documents will be preserved and retrieved. We recognize that the policy behind the bill is to save money because the current law requires depositing 75 paper copies of each document. As a compromise, we would reduce, but not eliminate the paper depository requirement.

Arguments against the position (if any):

None.

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.

None known.

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

For each document required to be deposited with the State Library, our policy would reduce the cost for documents also available on the Internet, by requiring a State agency to deposit only 2 copies instead of 75.

HB 5390 completely eliminates the depository requirement for documents available on the Internet. Our policy would still result in substantial savings.

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category (to be completed for legislative issues only):

- 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 competence, and the integrity of the profession.

Keller- permissible explanation:

Access to State agency documents is directly related to legal research.