

CIVIL PROCEDURE & COURTS COMMITTEE  
Respectfully submits the following position on:

\*

HB 5076

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The Civil Procedure & Courts Committee is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Civil Procedure & Courts Committee only and is not an official position of the State Bar of Michigan, nor does it necessarily reflect the views of all members of the State Bar of Michigan.

The State Bar position on this matter is to oppose HB 5076.

The total membership of the Civil Procedure & Courts Committee is 17.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 17. The number who voted in favor to this position was 9. The number who voted opposed to this position was 0. The number who abstained from voting was 1.

**Report on Public Policy Position****Name of committee:**

Civil Procedure & Courts Committee

**Contact person:**

Daniel D. Quick

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**Bill Number:**

[Substitute HB 5076 \(H-3\)](#) (Pettalia) Local government; budgets; challenging an approved budget; clarify. Amends secs. 16 & 18 of 1968 PA 2 (MCL 141.436 & 141.438).

**Date position was adopted:**

October 13, 2012

**Process used to take the ideological position:**

Position adopted after discussion and vote at a scheduled meeting.

**Number of members in the decision-making body:**

17

**Number who voted in favor and opposed to the position:**

9 Voted for position

0 Voted against position

1 Abstained from vote

7 Did not vote

**Position:**

Oppose

**Explanation of the position, including any recommended amendments:**

As to the sections addressing the courts, the Committee opposes the proposed legislation. First, the Committee questions the need for the legislation given existing law (as detailed in the Third Judicial Circuit memo) and existing procedures established by administrative order and administered through SCAO. Second, the Committee does not believe that the Court of Appeals is properly equipped to adjudicate factual questions and that the trial courts remain the proper place for such matters. Third, as to section 18(5), the Committee believes that this provision raises serious constitutional concerns and the Committee continues to support the recognition of the separation of powers as held by the Supreme Court in *Judicial Attorneys Ass'n v State*, 459 Mich 291 (1998).

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2012-HB-5076>

**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:**

This bill affects the functioning of the court because it would affect the funding of local courts.