

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7766

BILL NUMBER: SB 414

DATE PREPARED: Jan 12, 2001

BILL AMENDED:

SUBJECT: Marion County Small Claims Courts.

FISCAL ANALYST: Mark Goodpaster

PHONE NUMBER: 232-9852

**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- (A) It grants Marion County Small Claims Courts equity jurisdiction.
- (B) It specifies that the court need not rule on an untimely motion for change of venue.
- (C) It allows an appeal from judgments of the court to be taken to the Marion Circuit or Superior court.
- (D) It requires an appellant who files a request for an appeal to: (1) post a surety bond or cash deposit payable to the appellee in an amount sufficient to secure certain costs and penalties; and (2) pay all applicable filing fees; not more than ten days after the date that the appellant files the request for an appeal.
- (E) It specifies that, in an appeal from a judgment of a small claims court, the circuit court or superior court: (1) must presume the judgment of the small claims court is correct; and (2) may reverse the judgment of the small claims court only if the appellant shows by clear and convincing evidence that the judgment is in error.

Effective Date: July 1, 2001.

Explanation of State Expenditures:

Explanation of State Revenues: This bill allows judgments made in Marion County Small Claims Courts to be appealed in Marion Circuit Court, but makes appealing such judgments more difficult. All small claims cases in Marion County are heard in the nine township courts. Currently, an appellant can appeal a small claims judgment only in Marion Superior court, where the appellant essentially receives a new trial (trial de novo).

This bill makes appealing small claims judgments more difficult by requiring appellants to post surety bonds or cash deposits and to pay all applicable filing fees within ten days after filing a request for an appeal. Appealing these judgments will also be more difficult because the circuit or superior court must presume the judgment of the small claims court is correct, and that the small claims court judgment may be reversed only if the appellant shows by clear and convincing evidence that the judgment is in error (rather than the lower

preponderance of the evidence standard currently required).

These provisions will most likely result in fewer civil plenary filings in Marion County courts of record (appeals of small claims judgments are filed as new civil plenary cases). Civil plenary cases are defined as those founded in contract, actions dealing with real and personal property, as well as actions seeking equitable or injunctive relief.

If fewer small claims cases were appealed, revenue to the state and county general funds would decrease. The filing fee for civil actions is \$100. Of this fee, 70%, or \$70, is deposited in the State General Fund if the case is filed in a trial court. If a civil case is filed in a city or town court (providing the court has jurisdiction), the State General Fund receives 55% of the \$100 filing fee.

Explanation of Local Expenditures: The Marion County Township Courts do not currently maintain written transcripts for appeals to Marion Circuit and Superior Courts. For the cases decided in the small claims courts to be heard on appeal, rather than tried de novo, the small claims courts will need to preserve the verbatim record. Consequently, the township would likely incur added costs to upgrade its record keeping system and to hire court reporters trained in preparing a record for appeal.

The expenses of the Marion County Small Claims Courts are paid entirely out of the fees charged by the courts. The courts receive no funding from the county general fund or other tax sources.

Explanation of Local Revenues: If a case is filed in a trial court, the county general fund receives 27%, or \$27, of the filing fee. The other 3%, or \$3, is deposited in the general fund of the cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a circuit, superior, county, or municipal court located in the county. If the case is filed in a city or town court (providing the court has jurisdiction), the county general fund receives 20%, while the city or town general fund receives 25%.

In CY 1999, 76,002 small claims actions were filed in the Marion County Small Claims Courts.

State Agencies Affected:

Local Agencies Affected: Marion County Courts.

Information Sources: IC 33-19-7 (concerning civil filing fees and their distribution); IC 33-11.6-4-15; IC 33-19-5-2; 1999 Indiana Judicial Report; Robert Lutz, Judge, Wayne Township; Lilia Judson, Executive Director, Division of State Court Administration, Indiana Supreme Court.