

Judiciary

AB 122 – Appellate Times Limits & Procedure

Rep. Hebl

Summary of Bill:

AB-122 was introduced by request of the Wisconsin Judicial Council. Currently, a person seeking supreme court review of an adverse court of appeals decision must file a petition for review within 30 days of the court of appeals decision. Current law also provides a procedure for seeking reconsideration of a court of appeals decision, but does not toll the time to file a petition for review while the motion for reconsideration is pending. This bill tolls the time for filing a petition for review while a timely motion for reconsideration is pending in the court of appeals. The bill establishes revised time limits within which a petition may be filed, amended, or withdrawn, and within which an opposing party may respond, following the court of appeals determination of the motion for reconsideration.

Under current law, if an attorney who was appointed to represent a client thinks that a petition for review in the supreme court would be frivolous, he or she must advise his or her client of the reasons for that opinion and that the client may file a petition for review. If the client decides to appeal to the supreme court, the attorney shall file a petition for review that includes the facts and procedural status of the case, the dispositions of the case in the lower courts, and an appendix containing the judgments, orders, findings of fact, conclusions of law, and other decisions necessary for an understanding of the petition. The client files a supplemental petition containing the statement of the issues and arguments in the case. The petition and supplemental petition must be filed in the supreme court within 30 days after the decision or order of the court of appeals. This bill prohibits the filing of a petition or supplemental petition in the supreme court until after the court of appeals issues a response to a timely motion for reconsideration of its decision or order. If a person filed a petition or supplemental petition in the supreme court before the court of appeals issued a response to a timely motion for reconsideration, the bill requires the person to file a notice affirming, withdrawing, or amending the pending petition or supplemental petition, within 14 days after the court of appeals decision. If a petition or supplemental petition in the supreme court was made before the court of appeals issued a response to a motion for reconsideration, and that motion was denied, the bill allows the other party 14 days after the court of appeals denial to file a response to the petition or supplemental petition. The bill gives that party the same 14-day period to respond to a petition or supplemental petition filed after the motion for reconsideration was denied, or after the petition or supplemental petition was affirmed or amended in response to an amended court of appeals decision, after reconsideration.

Fiscal Effect:

A fiscal estimate prepared by DOA indicates no state or local fiscal effect. A fiscal estimate prepared by the State Public Defenders office indicates no state or local fiscal effect.

Assembly Republican Message:

- AB-122 was introduced by request of the Wisconsin Judicial Council.

Opposition Arguments:

- AB-122 was introduced by request of the Wisconsin Judicial Council.

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Key Supporters:

Wisconsin Judicial Council; State Bar of Wisconsin; Representative Gary Hebl (author); Senator Lena Taylor; Nancy Rottier, Director of State Courts; Margaret Carlson, Wisconsin Court of Appeals; Mark Rinehart, Dept. of Justice; and Marla Stephens, Wisconsin Public Defender.

Key Opponents:

No one testified or registered against AB122, and no one registered against it with the Ethics Board.

Committee Vote:

On April 23, 2009, the Assembly Committee on Judiciary and Ethics recommended passage of AB122 on a vote of 10-0.

Staff Author of Bill Summary

Steve Knudson; Office of Rep. Mark Gundrum (7-5158)