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SFA



BILL ANALYSIS

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Senate Bill 855 (as passed by the Senate)
Sponsor: Senator Leon Stille
Committee: Local, Urban and State Affairs

Date Completed: 8-18-98

RATIONALE

Fences dot much of Michigan's rural landscape today as they did in 1846 when a State law first provided for their construction and maintenance. Public Act 34 of 1978 replaced the 1846 law but still requires the owner of property who constructs a fence to pay for its construction and maintenance. If an adjoining property owner uses the fence to restrain or constrain animals, the Act requires the adjoining property owner to compensate the property owner who constructed the fence for his or her share of the current value of the fence, based upon the adjoining property owner's use of the fence. A township is required under the Act to appoint at least one resident to serve as a fence viewer. A city or village governing board must appoint a fence viewer only when a dispute arises concerning a fence that is a boundary line between local governments. A private property owner who constructed a fence may engage a fence viewer to determine whether an adjoining property owner is using a fence and, if so, the amount the adjoining property owner should contribute to the fence's construction and maintenance. In addition, a fence viewer may be engaged to assess the amount of damage caused where an animal of a property owner damages the fence of an adjoining property owner. Although the Act specifies that a fence viewer is not responsible for settling boundary disputes, there apparently has been some confusion about a fence viewer's proper role in these disputes. Some people believe that the Act should require boundary determinations to use a registered surveyor's findings rather than a fence viewer's observation of a fence or fence remnants.

CONTENT

The bill would amend Public Act 34 of 1978 to do the following:

- **Specify that a fence viewer would not be responsible for determining the location of a boundary, and require that boundary determinations use a registered surveyor's findings and not an existing fence or fence remnants.**
- **Provide that, in boundary disputes regarding a fence between townships or between a township and a city or village, one fence viewer could be selected for each township, city, or village, or one fence viewer could be selected upon mutual agreement of the local governments.**
- **Require a township, city or village, in a boundary dispute, to be responsible for the cost of constructing and maintaining a portion of a fence, if no appreciable difference in benefit would be derived by any of the local governments.**

Currently, a fence viewer is not responsible for settling boundary disputes. The bill would add that a fence viewer would not be responsible for determining the location of a boundary.

Under the Act, if a dispute arises concerning a fence that is the boundary line between townships or partly in one township and partly in another township, one fence viewer from each township must be selected to settle the dispute. The bill would permit the selection of one fence viewer from each township and also would permit one fence viewer to be selected by mutual agreement of each township. If no appreciable difference in benefit were derived by either township, each township would be responsible for the cost of constructing and maintaining that portion of the fence that was to the right of the center of the fence as it was viewed from that township's property.

Currently, if a dispute arises regarding a fence that is the boundary line between a township and a city or village, or partly in one township and partly in a city or village, one fence viewer from the township and one fence viewer from the city or village must be selected to settle the dispute. The bill would permit, instead of require, the selection of one fence viewer from each local government as well as permit the selection of one fence viewer by mutual agreement of the township and the city or village. If no appreciable difference in benefit were derived by either the township or the city or village, the township and the city or village would be responsible for the cost of constructing and maintaining that portion of the fence that was to the right of the center of the fence as it was viewed from the township's property and the city's or village's property.

MCL 43.54-43.56

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Fences often have been used to mark property lines in rural areas across the State. Over the years, many fence lines have deteriorated, which had led in some cases to property owners' or local governments' disagreeing about the location of a boundary line. The Act already specifies that a fence viewer is not responsible for settling boundary disputes. The bill would add that a fence viewer would not be responsible for determining the location of a boundary. In addition, a boundary determination would have to use a registered surveyor's findings and not an existing fence or fence remnants.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.