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SFA



BILL ANALYSIS

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Senate Bill 855 (as enrolled)
Sponsor: Senator Leon Stille
Senate Committee: Local, Urban and State Affairs
House Committee: Local Government

PUBLIC ACT 377 of 1998

Date Completed: 1-12-99

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 specifically should require boundary disputes to be settled and boundaries determined pursuant to State law.

of a boundary, and require that boundary disputes be settled and boundaries determined pursuant to State law.

- **Provide that, in boundary disputes regarding a fence between townships or between a township and a city or village, one fence viewer may be selected for each township, city, or village, or one fence viewer may be selected upon mutual agreement of the local governments.**

Previously under the Act, if a dispute arose concerning a fence that was the boundary line between townships or partly in one township and partly in another township, one fence viewer from each township had to be selected to settle the dispute. Under the bill, one fence viewer from each township may be selected, or one fence viewer may be selected by mutual agreement of each township.

Previously, if a dispute arose regarding a fence that was 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 had to be selected to settle the dispute. The bill permits, instead of requires, the selection of one fence viewer from each local government, as well as permits the selection of one fence viewer by mutual agreement of the township and the city or village.

MCL 43.54-43.56

CONTENT

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

- **Specify that a fence viewer is not responsible for determining the location**

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 adds that a fence viewer is not responsible for determining the location of a boundary. In addition, a boundary dispute must be settled and boundaries determined pursuant to State law.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill will 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.