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SFA



BILL ANALYSIS

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House Bill 5084 (as reported without amendment)
Sponsor: Representative Agnes Dobronski
House Committee: Local Government
Senate Committee: Local, Urban and State Affairs

Date Completed: 12-9-97

RATIONALE

The original survey of Michigan's land, which was conducted between 1815 and 1857, established 1,231 townships that were subdivided into 26-mile square sections. These areas were defined by approximately 165,200 section and quarter section "corners" set at half-mile intervals across the State. Once the corners were determined, they were marked or "monumented" by four-foot pine or cedar posts. Surveyors that followed used numerous assorted items, ranging from shotgun barrels and railroad spikes to ceramic pieces, to mark a corner. Over the past 140 years, many of the original monuments have rotted away, while other markers have been covered up by the paving and repaving of roads, carelessly moved during construction, or wantonly destroyed. These corners, however, serve as the basis for all public and private property locations. Because of the disappearance, deterioration, or misplacement of section markers, property surveys have become more difficult, disputes more common, and surveys more expensive. The State Survey and Remonumentation Act therefore was enacted in 1990 to require each county to establish a plan for the monumentation or remonumentation of the entire county within 20 years. The Act also created the State Survey and Remonumentation Fund, which is used by the State Survey and Remonumentation Commission to fund the implementation of county remonumentation plans, including the payment of surveyor contracts. The remonumentation program, however, assumes that a county will take 20 years to carry out the plan, and makes no provision for funding expedited remonumentation programs. Some people believe that counties should be allowed to expedite their remonumentation plans with assurance that they will be able to recapture their implementation costs.

CONTENT

The bill would amend the State Survey and Remonumentation Act to do the following:

- Permit a county or two or more counties to expedite a monumentation and remonumentation plan.
- Require the amount spent or borrowed for expediting a plan to be paid from the State Survey and Remonumentation Fund.
- Permit a county or counties to recapture money that was spent or borrowed to expedite a plan before January 1, 1991.
- Increase the grant to a county or counties to implement a plan from 20% to 40% of the money collected in the county or counties by a register of deeds for recording an instrument.

Each county is required under the Act to establish a county monumentation and remonumentation plan that, among other things, provides for the monumentation or remonumentation of the entire county within 20 years. The plan also must include a perpetual monument maintenance plan that provides for all corners to be checked, and if necessary remonumented, at least once every 20 years. A county's plan must be approved by the Commission. (The bill would revise the definition of "commission" to delete reference to the State Survey and Remonumentation Commission, and define Commission, instead, as the Director of the Department of Consumer and Industry Services.)

Under the bill, upon the establishment and approval by the Commission of a county plan, a county could spend or borrow funds to expedite the completion of its plan. If a county or two or more counties elected to spend or borrow funds to expedite their county plan, the Commission would have to enter into a contract to provide that the costs to expedite that plan would be reimbursed or

paid from the State Survey and Remonumentation Fund. A county or two or more counties that spent or borrowed money to expedite their county plan after January 1, 1991, could recapture costs spent or borrowed and used to expedite that plan, which would have to be paid out of the Fund. The Commission would have to pay those costs to the county over a period of at least 10 years.

Of the money collected and remitted to the State Treasurer for deposit in the Fund, the Act provides that an annual grant to a county or to two or more counties to implement their plans must be in an amount that is not less than 20% of the money collected in that county or those counties, under the Revised Judicature Act, during the calendar year immediately preceding the year in which the grant is made. The bill would increase that percentage to 40%. (Under the Revised Judicature Act, a county register of deeds is required to collect a \$2 fee for recording any instrument. The fees collected must be remitted quarterly to the State Treasurer and deposited in the Survey and Remonumentation Fund, except that a county may retain up to 1-1/2% of each \$2 fee collected to cover administrative costs. (MCL 600.2567a).)

In addition, if the Commission initiates and contracts for implementation of a county plan, the Commission annually must spend an amount that is not less than 20% of the aggregate amount of money collected in the county pursuant to the Revised Judicature Act. The bill would increase the grant and expenditure to 40% of the money collected in the county. If the Commission contracted with a county or two or more counties that elected to spend or borrow funds to expedite the implementation of the county or counties' plan, the Commission would have to pay annually to that county or counties, in lieu of any grant or payments described above, an amount that was not less than 40% of the amount of money collected in that county or counties under the Revised Judicature Act, during the calendar year and would be paid in annual installments until the contract was paid in full.

MCL 54.262 et al.

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

The Act requires a county to establish a remonumentation plan to locate and replace

survey monuments located in the county within 20 years, with the State providing annual grants to the county during that period to pay for the remonumentation work. Some counties have expedited or are considering expediting their remonumentation programs, which means that these counties must pay up front for the remonumentation program. Kent County apparently has completed its remonumentation plan and is seeking to recapture its costs. Oakland County reportedly may expedite its program and is prepared to borrow money to do so, but wants assurance that the State will continue to remit funds annually. The Act, however, contains no provisions that allow counties to spend their own funds or borrow money to pay for the expedited work and then be eligible for reimbursement over time by the State. The bill would allow counties to expedite their remonumentation plans and would provide assurance that annual grants would continue to be awarded to pay for the costs of expediting a county's plan.

Response: There is some concern that if the amount of revenue generated from registry fees should decline, there may insufficient funds over the long run to cover remonumentation costs, including meeting the costs of expedited remonumentation programs that were completed.

Supporting Argument

A number of counties in the State are experiencing rapid commercial and residential development, but many of the survey monuments in those area have been removed or destroyed, or have deteriorated. Consequently, many counties have had difficulty maintaining accurate survey maps of parcels of land in a county. Some officials in counties experiencing rapid growth prefer not to implement a remonumentation program over 20 years, but want to accelerate their programs to meet development needs. Established survey corners would enhance this development by allowing local governments to maintain accurate parcel maps, thus promoting good land use planning and development decisions. Furthermore, some local governments are implementing computer mapping systems that require accurate monument points to map out physical characteristics of a land area. Accurate survey corners would lay the groundwork for reliable computer-drawn parcel maps.

Legislative Analyst: L. Arasim

FISCAL IMPACT

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

Fiscal Analyst: M. Tyszkiewicz

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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.