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Senate Bill 803 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Joanne G. Emmons
Committee: Local, Urban and State Affairs

Date Completed: 11-29-99

RATIONALE

The Corner Recordation Act provides for a system of recording "corners", which essentially are geographic points on the earth's surface that serve as the basis for all public and private property locations. Corners were first established in this State in the mid-1800s, when the public land survey system was being implemented. Once the original corners were determined, they commonly were marked, or "monumented", by pine or cedar posts, which subsequently were replaced by other physical objects. Present law requires all monuments to possess a magnetic field.

Under the Act, a surveyor must file with the register of deeds a "corner record" for every public land survey corner that is established, monumented, or rehabilitated by the surveyor, or used as a control in a survey. A surveyor also may file a corner record for other types of corners. (The various types of corners are described in **BACKGROUND**, below.) In addition, the Act includes specifications for setting a monument, depending in part on whether the corner is in a public highway and, if so, whether the highway is hard-surfaced.

The current requirements apparently are problematic for surveyors in a couple of ways. When a corner falls in a roadway, installing or repairing the monument can disrupt traffic as well as present a danger for the individuals who are doing the work. In addition, when monument boxes are installed in a roadway, they evidently can cause the road surface to deteriorate. To address these concerns, it has been suggested that surveyors should have the option of installing reference monuments where a corner location is unsafe, and that agencies with jurisdiction over roads should have the authority to decide the type of monuments that are placed in a roadway.

CONTENT

The bill would amend the Corner Recordation Act to allow the installation of reference monuments

when access to a corner would be unsafe; require monuments to have specific measurements; revise the specifications for setting a monument in a public roadway and on other property; provide that a monument set in a hard-surfaced public roadway would have to comply with the requirements of the agency having jurisdiction; increase the penalty for destroying a corner; and repeal Sections 9 and 11 of the Act.

Reference Monuments

Currently, a surveyor must file a corner record for every public land survey corner or accessory that is established, monumented, restored, or used as control in a survey, unless the corner and its accessories are substantially as described in an existing corner record. If a corner record must be filed under the Act, the surveyor must reconstruct or rehabilitate the monument of the corner and accessories to it so that it is left in such a physical condition that it remains as permanent a monument as is reasonably possible. The bill would retain that requirement, but would require the surveyor to "monument" the corner, rather than reconstruct or rehabilitate the monument.

The bill provides that if access to the corner location would create an unsafe condition, the surveyor could install at least four reference monuments interrelated and visible with the corner location and each other by angular and linear measurements. ("Reference monument" means a special monument that does not occupy the same geographic position as the corner itself, but whose spatial relationship to the corner is recorded and that serves to witness the corner.)

The Act defines "monument" as "an accessory that is presumed to occupy the exact position of a corner which shall be monumented in the field with permanent markers which possess a magnetic field, unless previously monumented with iron stakes, and capped with some device legibly showing the license

number of the licensed land surveyor responsible for placing them". Under the bill, "monument" would mean a marker that occupied the position of a corner and that possessed or was made to possess a magnetic field.

"Corner record" would mean a written record on a form, approved by the Board of Professional Surveyors, of a corner established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated, or used as a control in a survey.

Setting a Monument

The bill provides that when set, a monument would have to possess a magnetic field, be at least a half-inch in diameter and a minimum of 18 inches in length, and be legibly capped showing the license number of the surveyor. Unless it were to be set in a public roadway, a monument would have to be set with at least two-thirds of its length below the surface of the surrounding ground. If a corner were located in a public roadway and the roadway were hard-surfaced at the corner, whether by concrete, asphalt, or otherwise, the monument (including a monument set before the bill's effective date) would have to be visible or contained within a visible protected enclosure and would have to comply with any requirements of the agency having jurisdiction over the roadway. If a corner to be monumented were located on a rock outcropping, the monument would have to be an iron bar at least half inch in diameter, drilled and grouted into solid rock to a depth of at least eight inches.

Currently, when a monument is not set in a public highway, the monument must be set not more than six inches above the surface of the surrounding ground and not more than six inches below the surface of the ground. When a corner is located in a public highway that is not hard-surfaced, the monument must be placed at least six inches below the surface of the highway. When a highway is hard-surfaced at the corner, whether by concrete, tarvia, or otherwise, a circular opening at least six inches in diameter must be left at the corner and properly covered with a metal cover, and the monument must be placed in the opening beneath the cover. The bill would replace these provisions as described above.

Penalties

Currently, a person who defaces, destroys, alters, or removes a corner is guilty of a misdemeanor and subject to a maximum fine of \$500 and/or imprisonment for up to 60 days. The bill provides, instead, that a person who defaced, destroyed, altered, or removed a corner monument or reference monument would be guilty of a misdemeanor punishable by a fine of up to \$1,000 and/or

imprisonment for up to 180 days.

Repealer

The bill would repeal Section 9, which allows corner records to be filed concerning corners established, reestablished, or restored before the Act's effective date; and Section 11, which allows the county board of commissioners of a county by a majority vote to authorize that county to furnish monuments for use within that county to registered land surveyors free of charge.

MCL 54.202 et al.

BACKGROUND

The Act requires a surveyor to file with the register of deeds a corner record for every public land survey corner that is established, monumented, or rehabilitated by the surveyor. "Public land survey corner" refers to a corner established and monumented in an original survey or resurvey "used as a basis of legal description for issuing a patent for the land to a private person from the United States government".

A surveyor also may file a corner record for a "property corner" (a geographic point on the earth's surface that is on, is part of, and controls a property line), a "property controlling corner" (a public land survey corner or a property corner that does not lie on a property line of the property in question, but controls the location of one or more of the property corners of that property), or a reference monument.

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

By allowing the use of reference monuments in locations where a monument at the corner would be unsafe, the bill would reduce traffic disruption and promote safety. Since corners are commonly located in the middle of intersections, installing and repairing monuments can be dangerous to the work crew as well as to motorists. Instead of requiring a monument to be located in the middle of a busy intersection, the bill would allow surveyors to use at least four reference monuments that would identify the location of the corner.

The bill also would protect roadways by enabling

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highway authorities to impose requirements for monuments set in hard-surfaced public roadways. This would allow the State Transportation Department, county road commissions, and cities and villages to decide the type of monuments installed in the roads over which they have jurisdiction. Currently, monuments that are set in roads are contained in monument boxes, which resemble small manhole covers at the top. These evidently can contribute to a roadway's deterioration and the need for repairs. Alternatively, a monument without a monument box can be set in a roadway flush with the surface of the pavement. The bill would ensure that highway authorities could require this or another type of installation that would cause less harm to the road.

Legislative Analyst: S. Lowe

FISCAL IMPACT

Senate Bill 803 (S-1) would have an indeterminate fiscal impact on local government.

The bill would increase misdemeanor penalties for defacing, destroying, altering, or removing a corner monument or reference monument from 60 days incarceration and/or a \$500 fine to 180 days and/or a \$1,000. Local units of government would incur the cost of incarceration and/or receive the fine revenue. There are no available data to indicate how many offenders may be convicted of this misdemeanor each year, and costs of incarceration vary among the counties.

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