

House Bill 4678 as introduced
First Analysis (6-11-03)

Sponsor: Rep. Jack Minore
Committee: Local Government and
Urban Policy

THE APPARENT PROBLEM:

In Michigan, notaries public are officers appointed by the secretary of state who have the power to attest to the authenticity of a person's signature, to administer oaths, to take affidavits, and to perform other legal acts. Notarization on a document certifies that the person named on it appeared before the notary, displayed valid identification, and signed the document in the notary's presence.

Notaries have long been regarded as an integral part of the effort to combat fraud during the transaction of commerce, and to ensure that commercial transactions are performed in an honest manner. Their efforts are complicated in the era of digitized signatures and electronic notarizations.

Historically, the personal integrity of notaries public has been of paramount concern to the state, given their role in legal and business transactions. Commissions are issued for up to five years, and applicants must file a constitutional oath of office and a \$10,000 surety bond with the county clerk. In addition, they must obtain an endorsement that attests to their character from a member of the state legislature or from a judge who works in either the circuit court or the probate court located within the county where they reside.

In order to increase the number of those officials in the community who can attest to the character of applicants who seek notary commissions, legislation has been introduced to include district judges among those community leaders who can endorse an applicant's notary forms.

THE CONTENT OF THE BILL:

House Bill 4678 would amend RS 14 of 1846 entitled "Of County Officers," to allow district judges to indorse the applications of people who seek appointment as notaries public.

Currently under the law, the secretary of state can appoint one or more notaries public in each county, and they hold office for not less than four or more than five years. In order to be appointed, an individual must be at least 18 years old, a county resident, and a citizen of the state, or if the applicant lives out-of-state, then demonstrate that his or her principal business is located within the county and state. A person who seeks appointment as a notary public submits a written application of a form distributed by the county clerk, stating his or her age. The application must be indorsed by a member of the legislature, or a circuit or probate judge of the county where the applicant resides, and then presented to the secretary of state with a \$3 fee. House Bill 4678 would retain all of these provisions, and in addition, allow district judges to indorse the applications.

MCL 55.107

BACKGROUND INFORMATION:

Notary public applicants must complete a form entitled "Application for Michigan Notary Public Appointment." The form is available from the Department of State fax-on-demand service at (517) 335-4FAX. The form also is available from the Office of the Great Seal, from any county clerk's office, from a bonding company, and also from the website of the Office of the Secretary of State, noted below.

For more information about notaries public visit the website of the Office of the Secretary of State at www.michigan.gov/sos

For a listing of notaries public in Michigan visit www.123notary.com/michigan/

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:***For:***

There are now nearly 150,000 notaries public commissioned in Michigan, and their number continues to increase. An increase in those community leaders who are able to endorse the notaries' applications would make the application process more convenient both for the applicants and those who provide their character endorsements.

Against:

This legislation may not be necessary. According to the Office of the Secretary of State, legislation will soon be introduced to streamline the notary public application process, and eliminate the need for endorsements by community leaders. The changes that will be embodied in the legislation have been recommended by a task force comprising local clerks and notaries.

POSITIONS:

The Office of the Secretary of State is neutral on the bill. (6-10-03)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.