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ANALYSIS

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Senate Bill 374 (Substitute S-3 as reported)
Senate Bill 375 (Substitute S-2 as reported)
Sponsor: Senator Ron Jelinek
Committee: Local, Urban and State Affairs

(as passed by the Senate)
(as passed by the Senate)

Date Completed: 5-4-09

RATIONALE

In 1827, a government survey of the border between Michigan and Indiana was completed and the border was marked officially with wood posts. Over the years, those markers have deteriorated or been lost, and the exact location of the boundary between the two states has become uncertain. In order to determine the location, it has been suggested that a commission consisting of representatives from Michigan and Indiana be established to administer a survey and remonumentation of the border.

CONTENT

Senate Bill 374 (S-3) would create the "Michigan and Indiana State Line Monumentation Act" to establish the Indiana-Michigan Boundary Line Commission and require it to do the following:

- **Administer a survey and remonumentation of the Indiana-Michigan border.**
- **Recover or reestablish relatively permanent monuments at the mileposts of the Indiana-Michigan state line.**
- **Resolve any controversies regarding the location of mileposts defining the Michigan-Indiana boundary.**

Senate Bill 375 (S-2) would amend the State Survey and Remonumentation Act to provide that any amount of money up to \$500,000 appropriated by the Legislature to pay the costs of the monumentation of the Michigan-Indiana

state boundary line would have to be used by the Department of Energy, Labor, and Economic Growth (DELEG) only for that purpose.

Senate Bill 375 (S-2) is tie-barred to Senate Bill 374. Senate Bill 374 (S-3) would not take effect unless Indiana enacted similar legislation, and the proposed Act would be repealed on January 1, 2015.

Senate Bill 374 (S-3)

The bill would establish the Indiana-Michigan Boundary Line Commission in DELEG. The Commission would consist of 10 members, five from Indiana and five from Michigan. The five members from Indiana would be appointed under the laws of that state and the five members from Michigan would be appointed by the Governor. Each member appointed by the Governor would have to be a professional surveyor licensed under Article 20 of the Occupational Code. The Governor would have to appoint one resident from each of the following counties: Berrien, Branch, Cass, Hillsdale, and St. Joseph.

At its first meeting, the Commission would have to elect from among its members a chairperson and other officers as it considered necessary or appropriate. After the first meeting, the Commission would be required to meet at least quarterly, or more frequently at the call of the chairperson or if requested by six or more members. The Commission would be subject to the Open Meetings Act and the Freedom of Information Act.

A majority of the Commission members from Michigan and a majority of the members from Indiana, together, would constitute a quorum for the transaction of business at a meeting. A quorum would be required for official action of the Commission.

Commission members from this State would have to serve without compensation but would be reimbursed for necessary travel and other expenses pursuant to the standard travel regulations of the Department of Management and Budget.

The Commission would have to administer a survey and remonumentation of the Indiana-Michigan border and recover or reestablish relatively permanent monuments at the mileposts of the Indiana-Michigan state line as established in the 1827 Federal survey that defined that line. It also would have to recover or reestablish relatively permanent monuments at the posts originally set at or near the shores of lakes and large rivers of the Indiana-Michigan state line as established in the 1827 Federal survey, or witness corners for set posts. The Commission would have to make periodic reviews of the contractors' progress in performing this work and would have to make a final review upon the installation of each monument.

("Monument" would mean a relatively permanent physical marker that occupies the location of a milepost or intermediate alignment control point of the Indiana-Michigan state line as originally established by the Federal survey of that line in 1827.)

In addition, the Commission would be required to do both of the following:

- Compile appropriate records and documents verifying the location of the monuments, and furnish those records and documents to DELEG.
- Resolve any controversies regarding the location of monuments defining the Michigan-Indiana boundary.

For each milepost or the posts originally set at or near the shores of lakes or large rivers determined under the proposed Act, a Michigan land recordation certificate that provided appropriate references, and Michigan south zone state plane coordinates, would have to be filed with the appropriate county register of deeds and a copy of those documents would have to be submitted to DELEG.

The Commission, in consultation with DELEG, would have to procure professional surveying services through negotiated contracts for the purposes of the proposed Act, would have to use a qualification-based selection method for awarding contracts, and could award contracts only to business entities incorporated or located in this State.

"Qualification-based selection" would mean the method of selecting professionals or firms to perform contractual work as follows: The selection of professionals or firms that provided the service would have to be based first upon their qualifications to perform the required work. After the qualified design professionals or firms had been chosen, DELEG would have to negotiate as to the cost of services. If price negotiations could not be satisfactorily completed with the highest ranked professional or firm, these negotiations would cease and negotiations would begin with the professional or firm that was next most qualified to perform the required work, and so forth until a professional or firm was selected to perform the services.

Within 60 days after completing its duties, the Commission would have to submit a written report to the Secretary of the Senate and the Clerk of the House of Representatives. The report would have to summarize the work performed under the Act and the activities of the Commission.

The proposed Act would not take effect unless the Director of DELEG certified in writing to the Secretary of the Senate and the Speaker of the House that similar legislation had been enacted by the State of Indiana and that the Indiana legislation enabled the interstate cooperation necessary to effectuate the Act and provided that the State of Indiana would share the responsibilities and costs of determining the Michigan-Indiana border in an equitable manner.

Senate Bill 375 (S-2)

Under the State Survey and Remonumentation Act, money in the State Survey and Remonumentation Fund must be used by the Commission (the Director of DELEG) for the purposes described in the Act, including the following:

- Annual grants to various counties to implement county monumentation and

remonumentation plans required by the Act.

- Annual grants to two or more counties to implement their multicounty plan.
- The implementation of county plans that are initiated and contracted for by the Commission.
- An annual grant to each county that has a county plan or to two or more counties that have a multicounty plan to implement a perpetual monument maintenance plan.
- The payment of contracts that are entered into by the Commission for monumentation or remonumentation.

Under the bill, in addition to the purposes described in the Act, any amount of money up to \$500,000 that was appropriated by the Legislature to pay the costs of the monumentation of the Michigan-Indiana state boundary line under the "Michigan and Indiana State Line Monument Act" would have to be used by DELEG only for that purpose. However, the appropriation could not come from money collected and remitted to the State Treasurer for deposit in the Fund pursuant to Section 2567a of the Revised Judicature Act.

(Under Section 2567a, a county register of deeds must collect a fee for recording any instrument. The fees collected must be remitted to the State Treasurer quarterly and deposited by the Treasurer in the Survey and Remonumentation Fund.)

MCL 54.262 & 54.272 (S.B. 375)

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

Because the jurisdiction of a state extends up to, but not across, its boundaries with other states, it is important to know the position of such boundaries. The bills, together with similar legislation enacted in Indiana, would authorize surveyors to conduct a retracement survey to recover or re-establish the location of the original border markers. Michigan's borders with Ohio and Wisconsin have been remonumented in the past with more permanent granite and concrete markers through a similar mechanism. The bills would provide for a permanent visible monument for each recovered or re-

established mile post along the border, pinpoint a recoverable geodetic position for each mile post, and provide accessible public records of all markers defining the boundary between the two states.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would increase the responsibilities and costs of the remonumentation program within the Department of Energy, Labor, and Economic Growth, if the State of Indiana enacts legislation indicating that Indiana will share the responsibility and cost of the remonumentation of the Michigan-Indiana border. Once the Indiana legislation is in place, Senate Bill 375 (S-2) would authorize up to \$500,000 to be spent pursuant to appropriation for the costs of the border remonumentation. The bill, however, does not make an appropriation or identify a funding source for the proposed spending. The bill would prohibit the use of revenue from the State Survey and Remonumentation Fund for the remonumentation of the Michigan-Indiana border. This would reserve that Fund for distribution to counties according to the current statutory formula to assist with county programs that replace and maintain the monuments that mark official reference points for property descriptions.

The State Survey and Remonumentation Fund receives revenue from fees collected by the county registers of deeds for recording any instrument. Before January 1, 2023, the fee is \$4 per instrument recorded. Beginning January 1, 2023, the fee is reduced in statute to \$2 per instrument recorded, to reflect the projected shift in the program from replacement of monuments to maintenance of monuments.

Revenue to the Fund was approximately \$7.0 million in FY 2007-08, reduced from the level in recent years by lower economic activity. The Department estimates revenue to the Fund at \$5.6 million in FY 2008-09.

Fiscal Analyst: Elizabeth Pratt
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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.