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BILL



ANALYSIS

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Senate Bills 374 and 375 (as enacted)
Sponsor: Senator Ron Jelinek
Senate Committee: Local, Urban and State Affairs
House Committee: Government Operations

PUBLIC ACTS 259 & 260 of 2010

Date Completed: 2-17-11

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 was suggested that a commission consisting of representatives from Michigan and Indiana be established to administer a survey and remonumentation of the border.

Economic Growth (DELEG) only for that purpose.

Senate Bill 375 was tie-barred to Senate Bill 374. The Michigan and Indiana State Line Monumentation Act will be repealed on January 1, 2015.

Senate Bill 374

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

At its first meeting, the Commission must elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the Commission must meet at least quarterly, or more frequently at the call of the chairperson or if requested by six or more members. The Commission is 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, constitute a quorum for the transaction of business at a meeting.

CONTENT

Senate Bill 374 created 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 re-establish 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 amended the State Survey and Remonumentation Act to provide that any amount of money, not to exceed \$500,000, appropriated by the Legislature to pay the costs of the monumentation of the Michigan-Indiana state boundary line must be used by the Department of Energy, Labor, and

A quorum is required for official action of the Commission.

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

The Commission must administer a survey and remonumentation of the Indiana-Michigan border and recover or re-establish relatively permanent monuments at the mileposts of the Indiana-Michigan state line as established in the 1827 Federal survey that defined that line. The Commission also must recover or re-establish 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 must make periodic reviews of the contractors' progress in performing this work and make a final review upon the installation of each monument.

("Monument" means 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 must 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 Act, a Michigan land recordation certificate that provides appropriate references, and Michigan south zone state plane coordinates, must be filed with the appropriate county register of deeds and a copy of those documents must be submitted to DELEG.

In consultation with DELEG, the Commission must procure professional surveying services through negotiated contracts for the

purposes of the Act, must use a qualification-based selection method for awarding contracts, and may award contracts only to business entities incorporated or located in this State.

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

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

The Act will not take effect unless the Director of DELEG certifies in writing to the Secretary of the Senate and the Speaker of the House that similar legislation has been enacted by the State of Indiana and that the Indiana legislation enables the interstate cooperation necessary to effectuate the Act and provides that the State of Indiana will share the responsibilities and costs of determining the Michigan-Indiana border in an equitable manner.

(In 2009, Indiana enacted legislation to create the Indiana-Michigan Boundary Line Commission; require it to administer and oversee a survey and remonumentation of the Indiana-Michigan border; and require the survey to install relatively permanent monumentation at the mile post positions as established by the original survey of 1827. The Indiana law took effect on July 1, 2009, and will expire on July 1, 2015.)

Senate Bill 375

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 not greater than \$500,000 that is 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 must be used by DELEG only for that purpose.

MCL 54.291-54.305 (S.B. 374)
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, create a commission that will 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 provide for a permanent visible monument for each recovered or re-established mile post along the border, pinpointing a recoverable geodetic position for each mile post, and provide for accessible public records of all markers defining the boundary between the two states.

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Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills increase the responsibilities and costs of the remonumentation program within the Department of Energy, Labor, and Economic Growth. Senate Bill 375 authorizes up to \$500,000 from the State Survey and Remonumentation Fund to be spent pursuant to appropriation for the costs of the border remonumentation. The bill, however, does not make an appropriation.

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 \$5,859,200 in FY 2009-10.

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.