

Act No. 166
Public Acts of 2014
Approved by the Governor
June 12, 2014
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June 12, 2014
EFFECTIVE DATE: June 12, 2014

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

**Introduced by Senators Walker, Kahn, Kowall, Booher, Jones, Proos, Green, Hansen, Casperson, Pappageorge
and Emmons**

ENROLLED SENATE BILL No. 472

AN ACT to amend 1990 PA 345, entitled "An act to create a state survey and remonumentation commission and to prescribe its powers and duties; to provide for the appointment of an executive director; to provide for a contract for the services of a state geodetic advisor; to create the state survey and remonumentation fund and to provide for its use; to coordinate and implement the monumentation and remonumentation of property controlling corners in this state and coordinate the establishment of geographic information systems; and to provide for certain powers and duties of certain state and local officers and agencies," by amending the title and sections 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 (MCL 54.262, 54.263, 54.264, 54.266, 54.267, 54.268, 54.269, 54.270, 54.271, 54.272, 54.273, 54.274, 54.275, 54.276, and 54.277), sections 2 and 12 as amended by 2010 PA 260, section 6 as amended by 1998 PA 5, section 8 as amended by 2002 PA 489, and section 11 as amended by 2006 PA 76, and by adding sections 9a, 9b, and 17a.

The People of the State of Michigan enact:

TITLE

An act to create a state survey and remonumentation commission and to prescribe its powers and duties; to create the state survey and remonumentation fund and to provide for its use; to coordinate and implement the monumentation and remonumentation of property controlling corners in this state; to provide for powers and duties of certain state and local officers and agencies; and to require the promulgation of rules.

Sec. 2. As used in this act:

- (a) "Commission" means the state survey and remonumentation commission created in section 3.
- (b) "County plan" means a county monumentation and remonumentation plan and perpetual monument maintenance plan established under section 8.
- (c) "County representative" means the individual obligated to perform the duties of county representative under section 9.
- (d) "Department" means the department of licensing and regulatory affairs.
- (e) "Fund" means the state survey and remonumentation fund created in section 11.
- (f) "Monumentation" means all land surveying activities performed by a surveyor to monument a protracted public land survey corner under this act and in accordance with the laws of this state.
- (g) "Original public land survey corner" means a corner established and monumented pursuant to orders and instructions issued by the United States government for the purposes of delineating United States public lands and private lands or subdividing public lands for conveyance.

(h) "Property controlling corner" means either of the following:

(i) A position misidentified as and used as an original public land survey corner or as a protracted public land survey corner that serves to control property lines.

(ii) Any other corner approved by the department, acting in consultation with the commission.

(i) "Protracted public land survey corner" means either of the following:

(i) A closing quarter section position along a township or range line or a center quarter section position that was not actually monumented on the ground in the field notes of the original United States government survey, but that serves to complete the nominal half-mile grid of government corners.

(ii) A monumented position that is not an original public land survey corner, lying on a section line or quarter line near a body of water, that serves to define the section line or quarter line in lieu of a submerged government position or an omitted meander position.

(j) "Remonumentation" means all land surveying activities performed by a surveyor to perpetuate a previously monumented original public land survey corner, protracted public land survey corner, or property controlling corner as provided in this act.

(k) "Surveyor" means a professional surveyor who is licensed to practice professional surveying under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

Sec. 3. (1) The state survey and remonumentation commission is created in the department.

(2) The commission shall consist of 7 members. By January 1, 2015, the governor shall appoint the members, with the advice and consent of the senate, as follows:

(a) Two members shall be appointed to represent the general public.

(b) One member must be a grant administrator appointed under section 9a.

(c) The remaining 4 members must be surveyors, 1 of whom must also be serving as a county representative. The 4 members appointed under this subdivision must be residents of the following areas of this state:

(i) One must be a resident of the Upper Peninsula, 1 must be a resident of the area of the Lower Peninsula that is north of the survey township line lying between survey township 16 north and survey township 17 north, and 1 must be a resident of the area of the Lower Peninsula that is south of the survey township line lying between survey township 16 north and survey township 17 north.

(ii) One must be a member at large, and may be a resident of any area of this state.

(3) Of the 7 members first appointed to the commission after the effective date of the amendatory act that added section 9a, 1 shall be appointed for a term of 1 year, 2 for terms of 2 years each, 2 for terms of 3 years each, and 2 for terms of 4 years each. At the expiration of the term of a member, the governor shall appoint a successor, who shall hold office for a term of 4 years and until his or her successor has been appointed and qualified. If there is a vacancy in the office of a member of the commission, the governor shall appoint a successor, with the advice and consent of the senate, for the unexpired term.

(4) Members of the commission shall serve without compensation, but shall be reimbursed from the fund for actual and necessary expenses in accordance with standards established annually by the legislature for similar boards or commissions.

Sec. 4. At the commission's first meeting, 1 member of the commission shall be selected by a majority of the commission members to be chairperson. The commission shall meet at least 2 times each year, at a time and place agreed upon by the commission. The chairperson may call special meetings at a time and place determined by the chairperson.

Sec. 6. (1) The department shall do all of the following:

(a) Coordinate the restoration, maintenance, and preservation of the land survey records and monuments of the public land survey system in this state, including, but not limited to, all pertinent field notes, plats, documents, and monuments.

(b) Establish a policy to maintain and provide safe storage of records required to be filed with the department under this act.

(c) Coordinate memoranda of understanding with other state, federal, and local agencies to promote the activities necessary, incidental, or appropriate to promote this act.

(d) Foster, encourage, and promote county plans for each county in this state and, after submission of county plans, review the plans for approval.

(e) Coordinate and administer a grant program for grants to counties to implement this act.

(f) By October 1 in each odd-numbered year, submit a report to the legislature and each county board of commissioners. The report must include, but not be limited to, all of the following:

(i) A summary of the department's activities regarding administration of this act.

(ii) An assessment of the progress of the implementation of county monumentation and remonumentation plans throughout this state.

(iii) A statement regarding the amount of money that was received and disbursed from the fund.

(iv) An assessment of how much money is necessary to carry out the county plans in this state.

(v) An assessment of whether the money received in the fund is adequate to implement this act.

(vi) Recommendations including, but not limited to, the level of funding that is necessary to implement this act.

(vii) A statement of the amount of money disbursed from the fund to each grantee, the average amount of money spent per corner by each grantee, and the percentage of work in its county plan completed by each grantee.

(2) If a county elects to expedite the county's plan as provided in section 8, the department shall enter into a contract described in section 8(4) to pay or reimburse the costs of expediting the plan. The amount expended or borrowed for expediting the county's plan shall be paid from the fund as provided in section 12(2).

(3) In performing its duties under this act, if the department is required to interact in any way with the commission and if the initial members of the commission have not been appointed and their appointment consented to by the senate under section 3 as amended by the amendatory act that added this subsection, the department may proceed with its duties under this act without the required interaction until the initial members are appointed and their appointment consented to.

Sec. 7. The employee in direct charge of the state survey and remonumentation section in the department that performs services for the director of the department under this act must be a surveyor.

Sec. 8. (1) Each county shall establish a county monumentation and remonumentation plan and perpetual monument maintenance plan. The department, in consultation with the commission, shall create and distribute a model county plan that may be adopted by a county with any changes appropriate for that county. By the second March 1 after the department promulgates rules under section 17(3), each county shall submit to the department for approval in consultation with the commission a county plan or, if the county has previously submitted a county plan, a revised county plan that complies with the amendments to this act enacted by the amendatory act that added section 9a and any rules promulgated after the effective date of that amendatory act and before the date that the county plan or revised county plan is to be submitted.

(2) A county plan shall provide for all of the following:

(a) A monumentation and remonumentation plan that provides for the remonumentation of all of the original public land survey corners, and any associated property controlling corners, and the monumentation or remonumentation of all of the protracted public land survey corners, and any associated property controlling corners, identified in the county plan. The monumentation or remonumentation of the county shall consist of:

(i) The filing of a land corner recordation certificate pursuant to the requirements of the corner recordation act, 1970 PA 74, MCL 54.201 to 54.210d, for each original public land survey corner and protracted public land survey corner in the county.

(ii) The inclusion in a certificate filed under subparagraph (i) of any property controlling corner associated with the original public land survey corner or protracted public land survey corner that is the subject of the certificate.

(iii) The filing of geodetic coordinates for each original public land survey corner and protracted public land survey corner in the county.

(b) The filing of copies of all recorded land corner recordation certificates produced pursuant to the county plan with the department.

(c) The exclusion or addition by the county of original public land survey corners or protracted public land survey corners, with the approval of the department, acting in consultation with the commission.

(d) A perpetual monument maintenance plan that provides for all original public land survey corners or protracted public land survey corners included in the county plan, and associated geodetic coordinates, to be maintained by requiring the filing of a land corner recordation certificate as required by the corner recordation act, 1970 PA 74, MCL 54.201 to 54.210d, as necessary.

(e) A peer review group as described in section 9b.

(f) Any other provisions reasonably required by the department for purposes of this act.

(3) If a county fails to establish and submit a plan or revised plan that is approved by the department under subsection (1), the department shall initiate and contract for the implementation of a county plan in that county as provided in section 10.

(4) Subject to subsection (5), after the establishment and approval by the department of a county plan, a county may expend or borrow money to expedite the completion of its plan. If a county elects to expend or borrow money to expedite its county plan, the department shall enter into a contract to provide that the costs to expedite that plan are reimbursed or paid from the fund as provided in section 12(2).

(5) After the effective date of the amendatory act that added section 9a, a county shall not expedite its county plan or expend or borrow money to expedite its county plan. A county that, before the effective date of the amendatory act that added section 9a, expedited its county plan or expended or borrowed money to expedite its county plan shall either have on file with the department a contract entered into under subsection (4) or execute a contract under subsection (4) within 1 year after the effective date of the amendatory act that added section 9a.

(6) A county that expended or borrowed money to expedite its county plan in accordance with this section after January 1, 1991 may recapture costs expended or borrowed and used to expedite that plan. The department shall pay those costs to the county from the fund as provided in section 12(2) over a period of not less than 10 years.

(7) A county plan may provide for the support by a county program of the extension, densification, upgrade, and maintenance of active and passive geodetic control stations.

Sec. 9. The county surveyor in each county in this state shall perform the duties of county representative for all surveying projects approved or initiated under this act. If a county does not have a county surveyor, the county board of commissioners shall appoint a licensed professional surveyor to perform the duties described in this section.

Sec. 9a. A county board of commissioners shall appoint a grant administrator to be responsible for and oversee the county's obligations and money associated with this act.

Sec. 9b. A county board of commissioners shall appoint a county peer review group to act as a panel of surveyors to review and provide advice on original public land survey corners or protracted public land survey corners presented by surveyors before the county accepts the original public land survey corners or protracted public land survey corners for filing under its county plan.

Sec. 10. (1) Any monumentation or remonumentation conducted under section 8(3) shall be conducted under a negotiated contract. The department shall prepare specifications for each contract negotiated by the department and monitor the field work and notes of work done under each contract to ensure compliance with those specifications.

(2) The department shall pay the cost of any contracts under this section from the fund.

Sec. 11. (1) The state survey and remonumentation fund is created in the state treasury as a separate fund. The fund shall be administered by the department.

(2) Money deposited in the fund, and all interest and earnings generated by the fund, shall not lapse at the end of a fiscal year, but shall remain in the fund to be expended as provided in this act.

(3) The fund may accept money received as gifts or donations, or money received from individuals or corporations to be used for purposes of this act.

(4) The department may direct the department of treasury to establish restricted subaccounts within the fund as necessary to administer the fund.

Sec. 12. (1) Money in the fund shall be used by the department for the following purposes:

(a) Annual grants to the various counties to implement their monumentation and remonumentation plans described in section 8(2)(a).

(b) The implementation of county plans that are initiated and contracted for by the department under section 8(3).

(c) Annual grants to counties to implement their perpetual monument maintenance plan described in section 8(2)(d).

(d) The payment of contracts that are entered into by the department under section 10.

(e) Other activities necessary, incidental, or appropriate to implement this act.

(2) In addition to the purposes described in subsection (1), money in the fund shall be used to pay the costs of expediting a plan or to reimburse the cost described in section 8(4), for a county that has elected to expend or borrow money to expedite the implementation of the county's plan.

(3) Of the money collected and remitted to the state treasurer for deposit in the fund under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, all of the following apply:

(a) An annual grant to a county under subsection (1)(a) must be in an amount that is not less than 40% of the amount of money collected in that county under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, during the state fiscal year that began 2 years before the beginning of the state fiscal year in which the grant is made.

(b) If the department initiates and contracts for the implementation of a county plan for a county under section 8(3), the department shall annually spend an amount that is not less than 40% of the amount of money collected in that county under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, during the state fiscal year that began 2 years before the beginning of the state fiscal year in which the expenditure is made, to implement that county plan.

(c) An annual grant to a county under subsection (1)(c) must be in an amount that is not less than 20% of the amount of money collected in that county under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, during the state fiscal year that began 2 years before the beginning of the state fiscal year in which the grant is made.

(d) If the department initiates and contracts for the implementation of a county plan for a county under section 8(3), the department shall annually spend an amount that is not less than 20% of the amount of money collected in that county under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, during the state fiscal year that began 2 years before the beginning of the state fiscal year in which the expenditure is made, for purposes described in section 8(2)(d).

(4) In addition to the purposes described in subsections (1) and (2), any amount of money not greater than \$500,000.00 that is appropriated by the legislature to pay the costs of the monumentation of the Michigan-Indiana state boundary line pursuant to the Michigan and Indiana state line monumentation act, 2010 PA 259, MCL 54.291 to 54.305, shall be used by the department only for that purpose.

Sec. 13. An application for an annual grant authorized under this act must be made on a form prescribed and furnished by the department. The department may require the applicant to provide any information reasonably necessary to allow the department to make a determination required by this act.

Sec. 14. (1) The department shall not make a grant under section 12(1)(a) unless all of the following conditions are met:

(a) The applicant files an application for the grant on or before December 31 of the calendar year immediately preceding the year in which the grant is made.

(b) The applicant demonstrates to the department the capability to carry out the county plan.

(c) The applicant demonstrates to the department that it has not completed its monumentation and remonumentation plan described in section 8(2)(a).

(2) The department shall make a grant under section 12(1)(c) if the applicant demonstrates to the department that it has completed its monumentation and remonumentation plan described in section 8(2)(a) or if the applicant voluntarily chooses to proceed to the program described in section 8(2)(d).

Sec. 15. (1) A recipient of a grant made under section 12(1)(a), (b), or (d) shall obtain authorization from the department before implementing a change that significantly alters the approved grant.

(2) The department may revoke a grant made by it under this act or withhold payment if the recipient of the grant fails to comply with the terms and conditions of the grant, or with requirements of this act or the rules promulgated under this act.

(3) The department may withhold a grant until the department determines that the recipient is able to proceed with the implementation of the applicant's county plan.

Sec. 16. (1) The department, upon request, shall provide copies or certified copies of records in its possession to the public, other state agencies or officers, or local governmental agencies. The department may charge a reasonable fee for providing the records.

(2) A certified copy of a record provided by the department is admissible in court as evidence, without further identification, if the substance of the record is properly admissible in the proceeding.

Sec. 17. (1) The department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this act.

(2) In promulgating rules under this section, or in adopting a guideline related to the administration of this act, the department shall consult with and consider recommendations provided to it by the commission.

(3) After the enactment of the amendatory act that added this subsection, the department shall promulgate rules to implement this act as amended by that amendatory act. Before the promulgation of rules under this subsection, the department may continue to administer this act under previously promulgated rules to the extent that the rules do not conflict with this act as amended by that amendatory act.

Sec. 17a. If a county is aggrieved by a decision of the department that affects the county made under this act or the rules promulgated under this act, the county may contest the decision of the department as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor