



**House  
Legislative  
Analysis  
Section**

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**DBA APPEAL BOARD**

House Bill 4986 as introduced **RECEIVED**  
First Analysis (10-9-89)

**NOV 16 1989**

Sponsor: Rep. Roland Niederstadt  
Committee: Towns and Counties Mich. State Law Library

***THE APPARENT PROBLEM:***

Public Act 101 of 1907 allows people to do business under an assumed or fictitious name (a practice known as "doing business as" or "DBA"), provided that they file with the county clerk and pay a six dollar fee. County clerks may reject any proposed name which they believe is likely to mislead the public or which is likely to deceive or cause confusion because of its similarity to an existing name already on file.

Reportedly, new businesses occasionally have been granted assumed names that have been the same as, or similar to, those of an established business, to the financial detriment of the existing business. However, since there is no appeals process for those who believe that they have been harmed by the approval of an assumed name, these businesses have had no formal way of seeking redress. At the request of a local chamber of commerce, legislation has been introduced that would create an appeals process for such cases as well as for when requests for assumed names are denied.

***THE CONTENT OF THE BILL:***

The bill would amend Public Act 101 of 1907 to allow county clerks to create an "assumed name appeal board," consisting of the county clerk, the county treasurer, and a community business person appointed by the county clerk. If the county clerk denied someone the use of a proposed assumed name, or if someone who conducted business under an assumed name believed that the county clerk had granted the use of the same or a similar assumed name, they could appeal to the assumed name appeal board (if such a board existed). Appeals would have to be made within 60 days of notification of the clerk's rejection of an application to use an assumed name or within 180 days of the time someone began doing business under a contested assumed name. The board would have to meet within 15 days of the appeal to review and decide the validity of the county clerk's original decision, and could charge a fee (no greater than the cost of the service provided by the appeal board) to the person appealing.

The county clerk and county treasurer would serve on such boards without pay, but the member from the business community would be paid for any expenses he or she incurred and could, in addition, be paid for his or her services if the county board of commissioners so decided.

MCL 445.1 and 445.2

***FISCAL IMPLICATIONS:***

Fiscal information is not available, but the House Fiscal Agency reported that a similar bill introduced in 1988 (House Bill 5112) had no fiscal implications for the state. (3-14-88)

***ARGUMENTS:***

***For:***

An established business, with an established reputation, can be harmed financially if another business is allowed to use the same or a similar name to trade on the established

business's reputation. Presently, businesses faced with this situation have no recourse other than through the courts, a time consuming and expensive process. The bill would help established businesses faced with this problem by allowing the creation of an appeals process when a new business is granted the same (or a similar) name as an existing business. In fact, the existence of an appeals process could even conceivably reduce such problems by discouraging people from deliberately (and unfairly) trying to trade on the good reputation of an existing business in the first place.

***POSITIONS:***

The Michigan Merchants Council and Associates supports the bill. (10-6-89)

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