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SFA



BILL ANALYSIS

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Senate Bill 116 (Substitute S-2 as reported)
Sponsor: Senator Bev Hammerstrom
Committee: Local, Urban and State Affairs

Date Completed: 10-11-00

RATIONALE

Under Article 7, Section 4 of the State Constitution, each county is required to have a register of deeds. A register of deeds is responsible for recording all documents relating to land transactions and land ownership, including different types of deeds, land contracts, mortgages, liens, and lease agreements. The register of deeds maintains an index system of those records, which can be reviewed or copied by any person. These records are essential for title searches and real estate transactions.

Apparently, increases in the number of documents have overwhelmed the available resources and have caused recording backlogs, which can vary from several days to several months, in many register of deeds' offices. Recording backlogs then can lead to delays in clearing title to property and to closing real estate deals. While some offices, such as the Wayne County register of deeds, have integrated computer systems to index record information, numerous other offices of the register of deeds still operate with handwritten ledger books for every record. Some people believe that an increase in recording and searching fees is needed in order to pay for updated technology for recording documents in the offices of the register of deeds.

CONTENT

The bill would amend the Revised Judicature Act to increase the recording and searching fees for documents received by a register of deeds; require each county to establish a "Register of Deeds Automation Fund"; require a register of deeds to deposit \$5 of each recording fee into the Fund until December 31, 2010; and require each register of deeds to begin processing documents with automated technology by 2005.

Fees

Under the Act, a register of deeds is entitled to charge a number of fees for recording, copying, sealing, searching, and filing a deed, mortgage,

certified copy of an attachment, notice of the pendency of a suit, or other instrument.

The bill would increase the fee for entering and recording a document from \$5 to \$10 for the first page, and from \$2 to \$3 for each additional and succeeding page. The bill would delete a current requirement that a register of deeds also collect a fee of \$2 for entering and recording a deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument. (This means that, under the bill, a minimum of \$10, rather than \$7, would be charged for recording a document.)

Under the bill, a register of deeds would have to deposit \$5 of the total fee collected for each recording into the proposed Register of Deeds Automation Fund until December 31, 2010.

In addition, the current fee for searching the records and files in the office of the register of deeds is 10 cents for each year searches are made, with a minimum fee of \$1. The bill provides that the fee for searching the records and files would be 50 cents for each year for which grantor/grantee searches were made, with a minimum fee of \$5, except that the fee for tract index searches would have to be based upon the cost of establishing and maintaining a tract index. The bill also would increase the fee for searching every other paper, on request, from 10 cents to \$1. (As currently provided, a county board of commissioners could reduce or eliminate these search fees.)

For any document that assigned or discharged more than one instrument, a \$3 charge, rather than the current \$1 charge, would have to be added to the recording fee for each additional instrument assigned or discharged.

Fund

Each county of the State would have to establish a Register of Deeds Automation Fund, which would

have to receive money deposited by the register of deeds of the county. The county treasurer would have to direct investment of the Fund, and credit to it all interest and earnings from investments.

A county register of deeds could spend fees credited to the Fund subject to an appropriation, for upgrading technology in the register of deeds office. Upgrading would include the design and purchase of equipment and supplies, and implementation of systems and procedures that would allow the register of deeds to receive, enter, record, certify, index, store, search, retrieve, copy, and otherwise process by automated procedures and advanced technology, documents, instruments, abstracts, maps, plats, and other items recorded and maintained by the register of deeds.

By January 1, 2005, each register of deeds would have to begin to implement procedures to process and make available all items recorded, compiled, or maintained by that register of deeds after January 1, 2005, using the automated procedures and advanced technology described above.

Beginning January 1, 2011, and to the maximum extent feasible, a register of deeds would have to process, maintain, and provide access to items received by the register of deeds for recording by using the automated procedures and advanced technology described above.

MCL 600.2567 et al.

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

The bill would enable the offices of register of deeds to improve their operations and reduce backlogs in the recording of documents. The bill would require counties to create a fund in which a portion of document recording fees would be deposited until the end of 2010 in order to secure a stable funding source for obtaining and installing necessary automation equipment. This would help counties to achieve such goals as computer access to records and electronic document imaging, in order to eliminate tedious microfilming procedures, as well as basic implementation of computerized document systems for some offices.

The technology update would enable the offices of the register of deeds to become more efficient, more up-to-date, and more accessible for businesses and

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individuals. In addition, for offices that currently do not operate on manual record-keeping, the bill would ensure a secure backup of all county documents filed with the register of deeds.

Response: It is questionable whether the fee increases would raise sufficient revenue to make significant improvements to office technology, particularly in small counties where there is little recording of documents.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have no fiscal impact on the State. The bill would increase revenues received by a register of deeds for the recording of documents. Depending on the length of the document recorded, the revenue per document would increase by 43% to 50%. Revenues for searching records also would increase between 500% and 1,000%, absent an offsetting action from a county board of commissioners.

Data are not currently available on total revenues received by registers of deeds in Michigan for providing these services, so the dollar effect of the bill's changes currently is unknown. The effect would vary by county due to differences in socioeconomic characteristics, and in some counties with small populations the effect of the bill could be minimal. For example, the Michigan Association of Realtors reports 1,826 home sales in the Upper Peninsula in 1999, compared with 10,222 in Grand Rapids and 16,165 in Macomb County. If each of these home sales required a two-page document to be recorded with the county register of deeds, the fee proposed increases would have increased revenues among all 15 counties by \$7,304 (or less than \$500 per county), compared with an increase of \$40,888 in Grand Rapids and \$64,660 in Macomb County.

Through 2010, the bill's increased fees from the recording of documents would be deposited in a special automation fund, which could be used only to upgrade technology in the register of deeds office. Consequently, the bill would increase restricted revenues for registers of deeds by an unknown amount. Unrestricted revenues also would increase by an unknown amount, due to the other proposed fee increases and, after 2010, the elimination of the requirement that the bill's increased fees be deposited in the automation fund.

Fiscal Analyst: D. Zin