



**House
Legislative
Analysis
Section**

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**REGISTER OF DEEDS: RAISE FEES
AND CREATE AUTOMATION FUND**

**Senate Bill 63 as passed by the Senate
First Analysis (12-10-02)**

**Sponsor: Sen. Bev Hammerstrom
House Committee: Local Government
and Urban Policy
Senate Committee: Finance**

THE APPARENT PROBLEM:

Under Article 7, Section 4 of the state constitution, each county is required to have a register of deeds. Registers of deeds are responsible for recording all documents relating to land transactions and land ownership, including different types of deeds, land contracts, mortgages, liens, and lease agreements. Each 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.

For several years now, registers of deeds have reported that increases in the number of documents have overwhelmed the available resources and have caused recording backlogs, varying from several days to several months. Recording backlogs can lead to delays in clearing title to property and to closing real estate deals. While some offices have integrated computer systems to index record information, others still operate with handwritten ledger books for every record. Legislation has been introduced to raise fees for services performed by registers of deeds and to require that a portion of the fees be deposited in an "Automation Fund", which each county would be required to create for the upgrading of technology.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to increase fees to be paid to registers of deeds for performing specific services and to require each county to establish an "Automation Fund" to be used for upgrading technology in registers of deeds' offices.

Entering/recording fees. The bill would raise the fees a county register of deeds is entitled to charge for entering or recording a deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument from \$7 to \$10 for the first "page"

and from \$2 to \$3 for each additional "page". (The \$7 and \$10 figures include a separate \$2 fee provided for in the same section of the act that the bill would amend but do not include a \$2 survey and remonumentation fee. House Bill 6490 as passed by the House would raise the \$2 survey and remonumentation fee to \$4.) A register would have to add \$3 to the recording fee, instead of \$1 as currently provided, for any document that assigned or discharged more than one instrument. Until December 31, 2006, the register of deeds would have to deposit \$5 of the total fee collected for each recording into the county's automation fund.

For the purposes of entering or recording deeds, mortgages, and other instruments, "page" is currently defined as one side of a single sheet of paper not exceeding 8.5 inches in width and 14 inches in length and not less than 13 (17 x 22—500) pound weight on which the printed or typed words are legible and not smaller than 8-point type. The bill would redefine a page as one side of a single sheet of paper *at least* 8.5 inches by 11 inches in length and not exceeding 8.5 inches by 14 inches in length and not less than 20-pound weight.

Searching fees. The bill would increase the fee for searching records and files from 10 cents to 50 cents for each year grantor/grantee searches are made and increase the minimum search fee from \$1 to \$5, except that the fee for tract index searches would have to be based on the cost of establishing and maintaining a tract index. The fee for searching for every other paper would be increased from 10 cents to \$1 for each paper examined.

Reduction or elimination of fees. The bill delete current language that allows a county board of commissioners to reduce or eliminate fees for copies of records or papers, searching records and files, and searching for other papers.

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Charter county. The RJA currently allows a charter county to impose its own fee schedule for performing services such as entering and recording instruments, searches, and making copies by ordinance. The bill would allow a charter county to impose its own fee schedule for performing such services by ordinance *or by resolution*. (As under current law, a charter county that chose to impose its own fee schedule could not charge more for a service than the cost of that service.)

County "Automation Fund". The bill would add a requirement that each county establish an Automation Fund, which would receive money deposited by the county's register of deeds as described above. (See "entering/recording fees".) The county treasurer would be charged with directing investment of the fund and with crediting to the fund interest and earnings from fund investments. The bill would direct each county's register of deeds to expend the fees credited to the fund, subject to a (county) appropriation under the Uniform Budgeting and Accounting Act, for upgrading technology in the register of deeds office, with priority given to upgrading search capabilities. "Upgrading" would include the design and purchase of equipment and supplies and implementation of systems and procedures that 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.

Not later than 90 days after the bill took effect, 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, using the automated procedures and advanced technology to the maximum extent feasible utilizing the Automation Fund.

Report to legislature. Four years after the bill's effective date, the register of deeds of each county would have to prepare a report to the legislature that addressed at least both of the following:

- the register's progress in achieving a goal of timely processing of recordable instruments since the bill's effective date; and
- the extent to which the register had made records in the register's possession computer accessible by way of Internet web sites or other on-line media.

Alternatively, the reports required could be compiled into a single report by an agent of the county registers of deeds before its submission to the legislature.

MCL 600.2567 et al.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would have no fiscal impact on the state. County register of deeds revenues would increase by varying amounts, depending on factors such as population and socioeconomic factors. (12-2-02)

ARGUMENTS:

For:

The bill would enable registers of deeds to improve their operations and reduce backlogs in the recording of documents by securing a stable funding source for obtaining and installing necessary automation equipment. The money would help counties to cover the costs of new technology, which would allow registers of deeds to process records by computer rather than by microfilming or by hand, in some places. For those offices that currently are processing records by computer, the bill would help ensure a secure backup of all documents filed with registers of deeds. Either way, this update in or strengthening of technology would enable offices to become more efficient and more effective, providing businesses and individuals with better service.

It makes sense to impose this fee increase on users of the system. Counties would like to be able to provide the money for increasing computer technology but are currently having a difficult time providing for basic services. Because few people understand what registers of deeds do, taking a millage increase to voters in individual counties would likely be unsuccessful, especially where voters are facing requests to support schools, libraries, and other services that are widely understood and appreciated. The recording fees have not been raised since 1991, and since those who use the system are the ones who benefit anyway, the fee increase seems appropriate.

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.

POSITIONS:

The Michigan Association of Registers of Deeds supports the bill. (12-9-02)

The United County Officers Association of Michigan supports the bill. (12-9-02)

The Department of Management and Budget is neutral on the bill. (12-9-02)

Analyst: J. Caver

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.