House
Legislative
Analysis
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INCREASE REMONUMENTATION FEE UNTIL 2013

House Bill 6490 as enrolled
Public Act 700 of 2002
Second Analysis (1-6-03)

Sponsor: Rep. Nancy Cassis
House Committee: Local Government and Urban Policy
Senate Committee: Local, Urban and State Affairs

THE APPARENT PROBLEM:

Public Act 345 of 1990, the State Survey and Remonumentation Act, requires each county to establish a plan for the monumentation or remonumentation of the county "within 20 years" after the act's original effective date—i.e., by 2013. "Monumentation" refers to the process of marking "corners" by land surveyors, a process that the federal government initiated when Michigan was still part of the Northwest Territory. Various objects, including pine and cedar posts, shotgun barrels, and railroad ties, were used to mark the corners, and many of the markers have rotted or become displaced over the years. In some cases, two markers purport to mark the same corner. Because property boundaries are often described with reference to the markers, confusion over their proper location sometimes leads to land title disputes, which in turn sometimes lead to litigation.

Remonumenting a county is a significant project, both logistically and financially. According to committee testimony, only 65,000 out of a total of about 300,000 corners statewide have been remonumented, halfway through the allotted 20-year time frame. Originally it was assumed that it would take about 20 years for counties to implement their remonumentation plans and that counties would use fund money from a newly created State Survey and Remonumentation Fund to pay for their implementation. (Public Act 346 of 1990 imposed a $2 state fee on legal instruments recorded with county registers of deeds and directed the proceeds from such fees to the fund.) Some counties eventually determined that they would not be able to implement their plans by 2013 unless they used sources of funding other than the remonumentation fund. As a result, legislation has since been enacted to allow counties that wish to expedite their plans to spend their own resources or borrow money and then be reimbursed by the state. Representatives of some counties believe that the $2 remonumentation fee for recording legal instruments should be raised to provide further assistance to counties that wish to speed up implementation of their remonumentation plans.

THE CONTENT OF THE BILL:

House Bill 6490 would amend the Revised Judicature Act of 1961 ("RJA") to raise the "remonumentation fee" that must be paid when recording instruments with a county register of deeds from $2 to $4 until January 1, 2013. On January 1, 2013 the fee would be reduced back to $2. Under the act, certain individuals, entities, and agencies are exempt from paying the fee, in specific circumstances. The bill would create an additional exemption for foreclosing governmental units recording instruments under sections of the General Property Tax Act dealing with the return, forfeiture, and foreclosure of tax delinquent property.

Under the RJA, counties send the money collected from the fee (except for up to 1.5 percent of the fee which may be retained by the county for administrative costs) to the state treasurer who in turn is to deposit the money into the Survey and Remonumentation Fund. Money from the fund is used to finance the implementation of counties' monumentation and remonumentation plans required by the State Survey and Remonumentation Act (Public Act 345 of 1990). Each county receives annual grants totaling at least 40 percent of the amount of money collected in that county during the preceding calendar year. Currently, the survey and remonumentation act allows a county to expend or borrow funds to expedite the completion of its county

monumentation and remonumentation plan and to be reimbursed for the costs of doing so. The bill would add a provision specifying that a county that had expended funds to expedite the completion of its county plan could apply not more than 50 percent of its annual grant revenue to reimburse itself for those previous expenditures, until those expenditures had been fully reimbursed. (The remainder of the county's annual grant revenue—at least 50 percent—would be available for maintenance costs and current costs of implementing the plan.)

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FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the fee increase should generate an additional $5.5 - $6 million annually, and this increase would allow for larger grants to counties to cover remonumentation costs. Since local units will continue to have the authority to retain 1.5 percent of the fee for administrative costs, local revenue would also increase. The exemption of recordings related to foreclosures would likely have a negligible impact on revenues.

The 50 percent limitation on revenue applicable to the costs of expedited county plans could affect the distribution of revenues among all counties. Current law allows counties to elect to implement an expedited plan, paying for remonumentation costs upfront with local dollars and then being reimbursed by the state through fund revenues over a ten-year period. Counties that have completed an expedited county plan—according to CIS, Oakland and Ottawa Counties have done so thus far—would only be allowed to use 50 percent of their annual grant revenues as reimbursement for expedited costs. Counties could use remaining revenue for maintenance purposes, although it is likely that these costs would fall below the remaining 50 percent of the annual grant award. Any remaining grant amount not used for reimbursement or maintenance would be returned to the state and could be redistributed to other counties. Essentially, this provision provides that the fee increase contained in the bill is utilized for current remonumentation activities and not for reimbursing past expedited activities. Affected expediting counties would continue to receive similar amounts from the state towards reimbursement of the expedited plan but would not receive additional revenues due to the increase. (1-06-03)

ARGUMENTS:

For:

Raising the remonumentation fee for recording instruments from $2 to $4 is a sensible way to increase the amount of money available to counties for the implementation of their remonumentation plans. Although it was originally assumed that the fee would be an adequate revenue stream for the remonumentation fund, $2 per instrument is simply not enough to ensure that counties across the state complete remonumentation by 2013. If counties are to implement their plans within the 20-year time frame set forth in the State Survey and Remonumentation Act, they need the money to do so. While some counties that wish to expedite their plans can afford to spend funds that are already at their disposal and be reimbursed, others cannot. And although some counties may be interested in issuing bonds for remonumentation, counties generally have plenty of other important projects for which they need to borrow. Further, the fact that counties have the legal authority to issue bonds does not mean that doing so is prudent. Issuing bonds always involves some risk, and even though money from the remonumentation fund would eventually be available to pay the principal and interest on the bonds, counties may have legitimate concerns about whether the money will come back to them as they need it.

By restricting counties' annual reimbursement funds to 50 percent of their annual grant revenue, the bill would direct most of the money to current implementation of plans and current maintenance costs. This will help ensure that remonumentation is completed by 2013.

Response:

While it is important that counties complete remonumentation by 2013, restricting counties' annual reimbursement funds to 50 percent of their annual grant revenue may be going too far. A county that has borrowed money to expedite its plan should be able to reimburse itself with any grant revenue that exceeds its maintenance costs.

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■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.