

REGISTER OF DEEDS FEES

House Bill 4441 (Substitute H-3) First Analysis (1-14-98)

Sponsor: Rep. Beverly Hammerstrom
Committee: Local Government

THE APPARENT PROBLEM:

A county register of deeds is responsible for keeping and making available to the public land ownership records. These records are essential for title searches and for a variety of real estate transactions. Testimony before the House Local Government Committee indicated that 38 out of 72 counties recently surveyed by the Michigan Association of Registers of Deeds are unable to record documents on a timely basis. Backlogs are said to vary from several days to several weeks to several months. Generally, increases in the number of documents recorded and in staffing and equipment costs have outstripped the increase in available resources, registers say. In Allegan County, to cite one example, the increase in documents and labor costs have exceeded 200 percent in the past 20 years, while the price charged for recording a two-page document has increased only 80 percent. (According to testimony, 8,500 documents were recorded in Allegan County in 1977 and 25,000 in 1997.) Recent increases in the refinancing of mortgages has only made matters worse. Recording backlogs can lead to delays in clearing titles to properties and to delays in real estate closings.

essentially \$7 for the first page and \$2 for each additional

Registers have proposed an increase in recording fees, with additional revenue to go to special county automation funds to upgrade the technology found in registers' offices. They note that the neighboring states of Illinois, Indiana, and Ohio have higher recording fees than found in Michigan and each has a fee targeted for an automation fund.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to increase certain register of deeds fees and to require that a portion of the fees be deposited in a Register of Deeds Automation Fund, which each county would be required to create for the upgrading of technology.

The recording fee for entering or recording a deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument would be increased to \$10 for the first page and \$3 for each additional and succeeding page. Currently, the fee is

page. (There is also a \$2 remonumentation fee per transaction.) Until December 31, 2008, the register of deeds would deposit \$5 of the total fee collected for a recording into the Register of Deeds Automation Fund. The act currently also specifies that if a document assigns or discharges more than one instrument, \$1 is added to page price for each additional instrument assigned or discharged. The bill would, instead, add \$3 to the recording fee for each additional instrument assigned or discharged.

The bill also would increase fees for searching the records and files in the office of the register of deeds. Currently the fee is 10 cents for each year for which searches are made, with a minimum fee of \$1. Under the bill, the fee would be either of the following: 1) 50 cents for each year, with a minimum fee of \$5; or 2) the county register of deeds would charge a fee for tract index searches, with the fee to be based upon the cost of establishing and maintaining a tract index.

The act currently allows a charter county to impose a fee schedule by ordinance with different amounts, although the fee cannot be greater than the cost of the service for which the fee is charged. The bill would specify that the provision applies to a charter county or a county organized under Public Act 139 of 1973, which allows for an "optional unified form of county government." (Wayne County is a charter county under Public Act 293 of 1966; Oakland and Bay Counties have adopted the optional unified form of county government permitted by Public Act 139.) It should be noted that the act also currently permits counties to reduce or eliminate fees for copies of records and for searches.

The bill would require each county to establish a Register of Deeds Automation Fund. The county treasurer would be required to direct the investment of the fund and credit to the fund interest and earnings from investments. The register of deeds could spend fees credited to the fund subject to an appropriation under the Uniform Budgeting and Accounting Act 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 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 January 1, 2003, 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, 2003, using the automated procedures and advanced technology described above.

Beginning January 1, 2009, 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 using the automated procedures and advanced technology described above.

Money in the automation fund at the close of a fiscal year would remain in the fund and not lapse to the county general fund until December 31, 2011.

The bill would also contain a new definition of the term "page." That term would refer to one side of a single white sheet of paper not less than eight-and-one-half inches wide and eleven inches long or more than eight-and-one-half inches wide and fourteen inches long, and of not less than twenty pound weight. (This is consistent with new requirements for filing documents established by Public Act 459 of 1996.)

MCL 600.2567 and 600.2567b

FISCAL IMPLICATIONS:

There is no specific information at present.

ARGUMENTS:

For:

The bill provides a means for upgrading technology in the offices of registers of deeds, thus improving their operations and reducing backlogs in the recording of documents. It creates a special fund for this purpose into which a portion of document recording fees will be deposited until the end of 2008. The bill contains a timeline for registers to automate their operations. Backlogs in recording documents complicate real estate transactions. Resources are not keeping up with responsibilities and staffing costs. Registers say that the new fees are reasonable. Fees in neighboring states are higher than those Michigan registers currently charge. According to information provided to the House Local Government Committee, Illinois charges a \$15 minimum for four pages, with \$1 per additional page, plus a \$3

automation fee. Ohio has a \$14 minimum for two pages, with \$4 per additional page, plus a \$4 automation fee. Indiana charges \$10 for the first page, \$2 for each additional page, plus a \$3 automation fee, and a \$1 copy fee. Under this bill, Michigan would charge \$10 for the first page and \$3 for each additional page, with \$5 of the total fee collected going to an automation fund. Further, the fee for recording a fee that assigns or discharges more than one instrument would be increased from \$1 per instrument to \$3 per instrument. There would also be an increase in fees for searches. Expenditures on technology could only be made through the county appropriations process. (This represents a compromise; the bill as introduced would have allowed registers of deeds to spend money in the automation fund for upgrading technology without an appropriation.)

Against:

Some people consider this an unwarranted fee increase. Each county should evaluate its register of deeds office to determine its current backlog and its need for improvements and act accordingly. This is an issue that county commissioners should address in constructing county budgets. Doubt has also been expressed as to whether the fee increases will raise sufficient revenue to make significant improvements to office technology, particularly in small counties where there is little recording traffic.

POSITIONS:

The Michigan Association of Registers of Deeds supports the bill. (1-13-97)

The Michigan Association of Counties has indicated support for the bill to the House Local Government Committee. (12-2-97)

The Michigan Bankers Association supports the bill in its current form. (1-12-97)

The Michigan Land Title Association supports the bill as reported from committee. (1-13-97)

The Michigan Oil and Gas Association supports the bill as reported from committee. (1-13-97)

Analyst: C. Couch

■ 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.