

FENCE VIEWERS

Senate Bill 855 (Substitute H-2) First Analysis (5-27-98)

Sponsor: Sen. Leon Stille
**Senate Committee: Local, Urban, and
State Affairs**
House Committee: Local Government

THE APPARENT PROBLEM:

Public Act 34 of 1978 created a new act to replace an 1846 law dealing with fence viewers. The act defines a "fence" as "a structure or natural barrier which is sufficient to confine an animal." Township boards appoint fence viewers, who are available to be engaged by a private property owner for two purposes: 1) determining if a property owner (or tenant of the property owner) is using a fence constructed or maintained by an adjoining owner and, if so, what percentage of the cost of construction and maintenance of the fence that property owner or tenant is responsible for; or 2) assessing the amount of damage if an animal of one property owner (or tenant) causes damage to another property owner's fence. Apparently, there has been some controversy or confusion about the proper role of fence viewers, particularly their role in settling boundary disputes. Legislation has been introduced to address this issue.

THE CONTENT OF THE BILL:

The bill would amend Public Act 34 of 1978 regarding fence viewers to do the following.

-- It would reiterate that a fence viewer is not charged with the responsibility of settling boundary disputes or determining the location of a boundary. Further, it says, "boundary disputes shall be settled and boundaries determined pursuant to state law." (The act currently says, "a fence viewer is not responsible for the settling of boundary disputes.")

-- It would specify that the fence viewer would be compensated 80 percent of the amount received by the local treasurer when the requested services had been performed. The township gets \$25 per day from the person engaging a fence viewer. The act currently says, "the fence viewer shall be compensated the amount received by the treasurer when the requested service has been performed."

-- Currently, the act says that if a dispute arises with regard to a fence which is the boundary between townships or partly in one township and partly in another, one fence viewer from each township shall be selected to settle the dispute. The bill would also permit one fence viewer to be selected by mutual agreement of each township. Similarly, one fence viewer could be selected when the dispute was between a township and a city or village, rather than one fence viewer from each jurisdiction. (Under the act, a city or village can only appoint a fence viewer in such a circumstance.)

MCL 43.54 et al.

HOUSE COMMITTEE ACTION:

The substitute adopted by the House Local Government Committee is similar to the bill that passed the Senate. The substitute version does not contain language in the Senate-passed bill that referred to which township would be responsible for a fence in certain cases. This was removed on the grounds that fence viewers deal with privately owned fences.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency has said the bill would have no state fiscal impact. As introduced, the bill would have increased the daily fee paid for the services of fence viewers to \$50 from \$25. This provision was removed before the bill passed the Senate. (SFA floor analysis dated 2-11-98)

ARGUMENTS:

For:

The bill would make it clear that it is not the responsibility of a fence viewer to settle boundary disputes or to determine the location of a boundary.

POSITIONS:

The Michigan Townships Association supports the bill.
(5-26-98)

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.