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COMBINING & SEPARATING OFFICES OF CLERK & REGISTER OF DEEDS

House Bill 5078 (Substitute H-3) First Analysis (5-20-98)

Sponsor: Rep. Robert Brackenridge
Committee: Local Government

THE APPARENT PROBLEM:

Under the Michigan Election Law, a county board of commissioners can unite the offices of county clerk and register of deeds where they are separate offices and can separate the two offices where they are combined into one. The law, however, contains no provisions describing a process to be followed. Testimony before the House Local Government Committee suggested that in at least one case a county united the two offices at a regular meeting with out providing public notice that the issue was to be addressed, resulting in turmoil and hard feelings. Legislation has been introduced to provide a process for the combining or separating of the two offices.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Election Law to provide a process for a county board of commissioners to use in either combining or separating the offices of county clerk and register of deeds, and to specify that the combination or separation of the offices could not take effect before the expiration of the current term of the affected offices.

Under the bill, before adopting a resolution to combine or separate the two offices, a county board of commissioners would be required to study the question. The county board as a whole would have to hold at least one public hearing, held subject to the Open Meetings Act, on the question. The board could then vote on the question as a regularly scheduled agenda item not less than 10 days or more than 30 days after the last public hearing held by the board on the question.

The board could by a vote of two-thirds of the commissioners elected and serving combine the offices or separate the offices. The resolution would become

effective upon the commencement of the next term of office of the clerk, register, or clerk-register after the adoption of the resolution. The vote could take place no later than the sixth Tuesday before the deadline for filing the nominating petitions for the office of clerk, register, or clerk-register.

MCL 168.200 and 168.643

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The bill would provide a process for county boards of commissioners to follow in either combining or separating the offices of county clerk and register of deeds. The election law allows the two offices to be filled by one person or two, but contains no provisions describing how it ought to be done. The bill ensures that the issue will be studied and will be subject to a public hearing close to the date when any vote on such an issue would be taken, and it requires a two-thirds vote. These are important offices with distinct duties; these duties must be carried out in accordance with the laws governing the offices, whether the duties are performed by two people or by one in a combined office. Decisions by county boards on whether to separate or combine the offices should be made carefully, with input from those affected and the general public, and with a minimum of partisanship.

POSITIONS:

The Michigan Association of County Clerks has indicated support for the bill. (5-12-98)

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The Michigan Association of Registers of Deeds has indicated support for the bill. (5-19-98)

The Michigan Association of Counties supports the bill. (5-19-98)

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.