

Legislative Analysis



ALLOW COUNTY CLERK TO PERFORM A MARRIAGE IN ANOTHER COUNTY WITH PERMISSION

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 667 as passed by the Senate
Sponsor: Sen. Cameron S. Brown
House Committee: Judiciary
Senate Committee: Judiciary

First Analysis (2-25-08)

BRIEF SUMMARY: The bill would authorize a county clerk to perform a marriage in a county other than the one in which he or she serves, with permission of that county's clerk.

FISCAL IMPACT: The bill would have no fiscal impact on the State. It may have a minimal fiscal impact on the distribution of local fee revenue depending on the number of people using clerks to solemnize a marriage in a county outside the county where the clerk serves.

THE APPARENT PROBLEM:

Under state law, a county clerk may perform a marriage held anywhere in the county in which he or she serves. Apparently, in at least one situation, a county clerk was asked to perform a marriage in a different county, but could not since the statute did not specifically allow it. County clerks, like ministers and judges and other people lawfully authorized to solemnize marriages statewide, have friends and family scattered throughout the state. Some feel that if asked to perform a marriage for say, a niece, nephew, or close friend, a clerk should be able to do so, even if the ceremony would take place outside of the county he or she was elected to serve—as long as that county's clerk granted permission.

THE CONTENT OF THE BILL:

Public Act 419 of 2006 amended Chapter 83 of the Revised Statutes of 1846 (MCL 551.7), which authorizes certain individuals to perform marriages, to allow a county clerk to solemnize (perform) a marriage in the county in which he or she serves. Senate Bill 667 would further amend Chapter 83 to allow a county clerk to perform a marriage in another county with written authorization by the clerk of the other county.

Currently, if a county clerk solemnizes a marriage, the county clerk must charge and collect a fee set by the county commissioners. The fee is paid to the county treasurer and deposited in the county's general fund at the end of each month. To conform this provision to situations in which a county clerk solemnized a marriage in a different county, the bill would specify that the fee would have to be determined by the commissioners of the county in which the clerk served, be paid to the treasurer for the county in which the clerk served, and be deposited in the general fund of that county.

HOUSE COMMITTEE ACTION:

The committee made no changes to the Senate-passed version of the bill.

ARGUMENTS:

For:

Reportedly, since Public Act 419 of 2006 authorized county clerks to perform marriages in the county in which they serve, some clerks have been asked by friends, relatives, or constituents to officiate at a ceremony located elsewhere in the state, for instance, along the shores of Lake Michigan. However, under current law, this is not possible. The bill would amend the marriage act to permit a county clerk to perform a marriage anywhere in the state, but only if the county clerk serving the county where the ceremony would take place permits it, in writing.

The bill would also revise the provision pertaining to the fee set by the county commissioners that a clerk must collect when performing a marriage. Under the bill, the clerk performing the marriage would have to charge the fee set by his or her county commission, and pay the fee to his or her county treasurer for deposit into the general fund of the county he or she serves.

POSITIONS:

The Michigan Association of County Clerks supports the bill. (2-20-08)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Bethany Wicksall

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