




Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4938 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Representative Shelley Taub
House Committee: Local Government and Urban Policy
Senate Committee: Local, Urban and State Affairs

CONTENT

The bill would create the "Michigan Notary Public Act" and repeal existing statutes that regulate notaries. Effective April 1, 2004, the bill would do the following:

- Require a person to apply to the Secretary of State (rather than a county clerk) for appointment as a notary public.
- Prescribe a \$10 application fee, a \$10 oath and bond fee filing fee, and a \$10 fee for a duplicate certificate of appointment.
- Allocate \$1 of the application fee, \$2 of the oath and bond filing fee, and \$1 of the duplicate fee to a new "Notary Education and Training Fund", which would be used for grants.
- Create the "Notary Fees Fund", which would receive the balance of the fees, other charges, and administrative fines, and would be used to defray the Secretary of State's administrative costs.
- Allow the Notary Education and Training Fund to retain up to \$85,000 at the end of the fiscal year, and provide for the balance to lapse to the General Fund.
- Provide that a notary public's appointment would expire on his or her birthday between six and seven years (rather than between four and five years) after the date of appointment.
- Allow a notary public to charge a maximum fee of \$10 for a notarial act (rather than up to \$2 for notarizing an acknowledgment and up to 50 cents for copying and serving).
- Allow a notary to perform certain notarial acts, including witnessing and attesting to a signature, and define "signature" to include a written, printed, or electronic signature.
- Prohibit notaries from performing certain acts, such as using the term "notorio publico" in their advertising.
- Prescribe administrative sanctions for misconduct by a notary.
- Make it a felony punishable by up to \$3,000 and five years, for a notary to perform a notarial act after his or her commission was revoked.
- Make other violations a misdemeanor punishable by up to \$5,000 and/or one year.

To qualify for an appointment, a individual would have to be at least 18 years old; be a resident of the State or maintain a principal place of business in the State; read and write in English; and be free of any felony convictions, misdemeanor convictions, and other violations as described in the bill.

Legislative Analyst: George Towne

FISCAL IMPACT

The fee increases would generate approximately \$238,000 in additional State revenue and \$250,000 for local units of government. The amount of revenue in future years would decline due to the extended term of appointment under the bill.

With the exception of funding allocated to the Notary Education and Training Fund, State fees would be deposited in the Notary Fee Fund to defray the Secretary of State's administrative costs under the bill.

The Notary Education and Training Fund would receive approximately \$68,000 of the filing fees paid to county clerks and \$34,000 from the State filing fee.

There are no data to indicate how many offenders would be convicted of the proposed misdemeanor and felony offenses. An offender convicted of a misdemeanor for violating the proposed Act could receive probation, up to one year's incarceration in a local jail, and/or a fine of up to \$5,000. An offender convicted of a felony for performing notarial acts after his or her commission had been revoked could be sentenced to probation, up to five years' incarceration in a local or State facility, and/or a fine of up to \$3,000. Local units of government incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. The State is responsible for the cost of felony probation at an average annual cost of \$1,750, and the cost of incarceration in a State facility at an average annual cost of \$27,000. Public libraries would benefit from any additional penal fine revenue raised due to the proposed penalties.

Date Completed: 11-5-03

Fiscal Analyst: Bill Bowerman
Bethany Wicksall

Floor/hb4938

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.