

# State Notes

## TOPICS OF LEGISLATIVE INTEREST

Fall 2015



### **An Update on the Remonumentation Grant Program** **By Josh Sefton, Fiscal Analyst**

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Recent legislative changes to the Remonumentation Grant Program administered by the Department of Licensing and Regulatory Affairs (LARA) have raised a number of questions about the program. This article seeks to provide background information on the program, describe the legislative changes, and discuss the timeline for completion of the remonumentation process.

#### **Background**

The Office of Land Survey and Remonumentation within LARA is responsible for the administration of the State Survey and Remonumentation Act (SSRA), Public Act (PA) 345 of 1990. The SSRA provides for the identification and marking of corner positions in each county; the markers at these locations form the basis for property boundaries in Michigan. Before the SSRA was enacted, many of the corner markers relied upon by local surveyors were the ones placed during the original government surveys of Michigan conducted between 1815 and 1857. In more developed urban and suburban areas, these corner markers had been maintained due to frequent use, but in rural areas many markers were still the originals. Additionally, over a century-and-a-half has elapsed since the most recent of the original surveys, so many of the corner markers are damaged or missing.

The goal of the SSRA was to establish a program for counties to be able to locate, inspect, and repair or replace all of their original survey markers over a 20-year period. Each county, in order to be eligible for funding, was required to establish and adhere to a plan to appropriately remonument the corners in the county, and to provide for the maintenance of the new or repaired markers. Public Act 346 of 1990 established a \$2 (now \$4) increase in the recording fees collected by county register of deeds offices. This additional revenue is remitted to the State for deposit in the Survey and Remonumentation Fund, and then distributed back to counties as remonumentation grants.

In addition to providing for the replacement of original markers, county plans also must contain a provision for perpetual monument maintenance to ensure that damaged or missing monuments are replaced. The statute allows counties to receive grants for their perpetual maintenance plans.

#### **Legislative Changes to the Program**

Since the SSRA was enacted, the Legislature has made a number of changes to the program, starting with PA 5 of 1998. Public Act 5 allowed counties to expedite their county plans by essentially lending themselves money for remonumentation, which would later be repaid through future grants or through a contractual agreement with the Department. A few years later, PA 489 of 2002 expanded this by allowing counties to issue bonds to expedite their plans and then repay the bonds through a contractual agreement with the Department. Only Oakland and Ottawa Counties elected to expedite their plans, and neither chose to issue bonds to do so. Public Act 166 of 2014 removed the provisions for expedited plans.

Probably the most significant legislative change to the program from the standpoint of completion of remonumentation was PA 700 of 2002, which increased the \$2 recording fee for remonumentation to \$4. Public Act 700 contained a provision that would have reversed that increase on January 1, 2013, but PA 662 of 2006 delayed that reversal to January 1, 2023.

The final amendments made to the SSRA were by PA 166 of 2014. In addition to removing the provision for expedited county remonumentation plans, PA 166 made a number of other changes, including provisions that require revisions to county plans and allow protracted corners that were not marked during the original surveys to be monumented using remonumentation grants. Public Act 166 also changed the minimum amount of perpetual maintenance grants available each year from 5.0% of the total appropriation for remonumentation grants to a grant floor on a county-by-county basis. Now, if a county receives a perpetual maintenance grant, it must be in an amount not less than 20.0% of the total collections of \$4 remonumentation recording fees collected in that county two fiscal years before the fiscal year the grant was issued. Allowing corner markers that were not part of the original government surveys to be monumented means that the total number of corners likely will increase from the original 225,218. At the present time, it is unknown what the final number may be, as counties are still in the process of updating their county plans.

### **When Remonumentation will be Complete**

The original time frame for the complete remonumentation of Michigan within 20 years has passed. According to the program's 12<sup>th</sup> Biennial Report to the Legislature, dated September 2015, 138,810 of the estimated 225,218 total corners had been completed as of 2014. At the present pace, and with the funding levels currently available, the report states that it may take another 20 years before remonumentation is completed.

The report does not specify a particular reason that the program will take much longer to complete than had originally been anticipated. Based on the original Senate Fiscal Agency analysis of PAs 345 and 346 of 1990, however, it is clear that the original estimate for the number of corner markers was much lower than the actual number, and the cost to replace each marker was lower than the actual costs as well. Estimates from the 1990 bill analysis assumed that a total of 165,200 markers would be replaced for \$500 each, for a total cost of \$82.6 million in 1990 dollars. At the time, it was expected that the \$2 recording fee would generate about \$3.1 million per year, which would have allowed for the remonumentation of the entire State within 27 years. The estimate for the number of corners was incorrect, however, and did not count about 60,000 corners. Additionally, the \$2 recording fee, while ultimately doubled to \$4 in 2002, was not indexed to inflation and effectively lost about 2.2% of its original value each year for the first 11 years of the program.

Another factor that has worked against the completion of remonumentation was the housing bubble of the mid-2000s, which began to manifest itself in the form of reduced recording fees during fiscal year (FY) 2004-05. Since a significant portion of recording fee revenue is generated from residential real estate transactions, the slowdown in the housing market had a significant negative impact on that revenue. Table 1 provides revenue and expenditure figures for the program. Annual revenue for the program peaked in FY 2003-04 at \$14.7 million, and by FY 2007-08 it had fallen by over half to \$7.2 million. While official figures for FY 2014-15



are not yet available, an accounting query from the Michigan Administrative Information System reveals that revenue for FY 2014-15 will likely be about \$6.9 million less than in FY 2002-03, which was the first full year the \$4 recording fee had been in place.

Finally, PA 76 of 2006 redirected \$15.0 million from the Survey and Remonumentation Fund to the State General Fund as part of the budget resolution for FY 2005-06, and delayed completion of the program by another two or three years. There was language in PA 76 indicating the intent to repay that money sometime in the future, but that repayment has not occurred, and the intent language was removed from the statute by PA 166 of 2014.

The actual number of corners, as indicated by the Biennial Report, is 225,218, and the average cost to replace a corner is currently \$902.39. The total cost, assuming the work could be completed at what has been the historical average cost to replace a marker, would be \$203.2 million. This ignores, however, the effect that inflation has had on the measure of average cost in this program. The \$902.39 figure represents the average nominal cost to replace a marker between 1991 and 2014, a period during which inflation averaged about 3.2% annually. For the 2015 grant cycle, the Office of Land Survey and Remonumentation has proposed an average cost of \$1,422 per corner. Multiplying this by the 86,408 corners that have not yet been remonumented yields a total remaining cost for remonumentation of \$122.9 million in 2015 dollars. Since available revenue is typically around \$7.0 million per year with a portion going to program administrative costs as well as perpetual maintenance plan grants, the estimate of the Biennial Report that the remonumentation process could take another 20 years seems reasonable, and it would not be surprising to see the process take longer than that as costs continue to increase and revenue remains relatively constant.

Table 1 provides annual revenue and grant expenditures from the Survey and Remonumentation Fund. In total, about \$162.0 million has been collected from the \$4 (\$2 prior to 2002) recording deed fees for remonumentation and from interest and earnings on the Fund. Of that, about \$135.6 million was distributed back to counties as grants, \$15.0 million was transferred to the State General Fund to balance the State budget in FY 2005-06, and about \$10.7 million was used for costs related to administration of the program. Approximately \$2.5 million remains as a balance in the Survey and Remonumentation Fund as of the end of FY 2014-15.

Once remonumentation is complete, counties will move into the maintenance phase of their county plans, which includes periodic inspection and replacement of each corner marker. While maintenance of those markers should be an easier job than original remonumentation, given accurate geodetic coordinates for each marker as now required in county plans and other factors, a steady stream of funding will still be necessary. The Biennial Report states that \$10.0 million per year would be necessary to maintain each remonumented corner on a 20-year cycle; this amount has not been collected in a single year since FY 2005-06. It should be noted, however, that the statutory requirement for perpetual monument maintenance plans to provide for all corners to be checked on a 20-year cycle was removed by PA 166 of 2014. Maintenance will remain necessary, but the statute no longer specifies the time frame.



**Table 1**

<b>Remonumentation Program Financial Information FY 1990-91 through 2014-15</b>				
<b>Fiscal Year</b>	<b>Survey and Remonumentation Fund Revenue</b>	<b>Remonumentation Grants Issued</b>	<b>Program Administrative Costs</b>	<b>Survey and Remonumentation Fund Year-End Balance</b>
1990-91 thru				
1993-94 <sup>a)</sup>	\$13,258,800	\$9,126,100	\$1,040,200	\$3,092,600
1994-95	3,638,400	2,523,000	548,600	3,659,300
1995-96	4,300,800	4,223,000	512,500	3,224,700
1996-97	3,843,300	4,115,000	509,400	2,443,500
1997-98	5,181,100	3,834,200	520,500	3,269,900
1998-99	5,737,300	3,798,000	349,500	4,859,700
1999-00	5,458,200	4,392,300	239,700	5,685,900
2000-01	5,530,600	4,866,200	195,600	6,154,600
2001-02	7,050,800	5,893,600	174,000	7,137,700
2002-03	8,801,500	5,905,900	219,400	9,813,900
2003-04	14,743,500	9,696,000	201,400	14,660,000
2004-05	11,262,800	10,145,600	260,700	15,539,200
2005-06	(3,651,500) <sup>b)</sup>	9,832,700	292,100	1,848,600
2006-07	8,713,000	10,612,000	404,400	354,200
2007-08	7,160,100	7,617,100	418,000	0
2008-09	6,157,000	4,041,700	497,200	1,531,200
2009-10	6,047,400	5,087,000	647,200	1,844,300
2010-11	5,576,000	5,292,800	607,100	1,969,100
2011-12	6,827,700	5,070,100	748,700	2,978,000
2012-13	7,819,500	5,218,200	816,700	4,762,500
2013-14	6,608,300	7,331,100	818,500	3,220,900
2014-15 <sup>c)</sup>	6,946,300	6,939,700	678,100	\$2,549,400
<b>Total</b>	<b>\$147,010,900</b>	<b>\$135,561,300</b>	<b>\$10,699,500</b>	<b>--</b>

<sup>a)</sup> Program data for the first four years of the program were aggregated.

<sup>b)</sup> Adjusted for FY 2005-06 transfer of \$15.0 million from Survey and Remonumentation Fund to GF/GP.

<sup>c)</sup> FY 2014-15 figures are estimates as book-closing for FY 2014-15 has not yet occurred.

**Source:** Michigan Department of Licensing and Regulatory Affairs and Michigan Administrative Information Network

### Conclusion

For the past 24 years, the State of Michigan has conducted a program to provide counties with funding to locate and remonument the 225,200 corner markers placed during the original United States government surveys of the State in the early- to mid-1800s. While the original goal of the program was to complete this process within 20 years, increasing costs, an underestimate of the number of corners to be remonumented, stagnant revenue, legislative redirection of funds, and other factors have caused the timeline for completion of this project to be delayed significantly -- possibly by a total of 45 years or longer.