

HOUSE BILL REPORT

ESSB 6266

As Reported By House Committee On:
Law & Justice

Title: An act relating to the establishment of lost and uncertain boundaries.

Brief Description: Establish lost and uncertain boundaries.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Morton, Haugen, McCaslin, Rasmussen, Hargrove and Schow).

Brief History:

Committee Activity:

Law & Justice: 2/21/96 [DPA].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended. Signed by 16 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Murray; Robertson; Smith; Sterk and Veloria.

Staff: Bill Perry (786-7123).

Background: Boundary lines between parcels of land sometimes become lost or otherwise uncertain and may become a matter of dispute between land owners. More than one procedure exists for resolving such disputes.

Under an 1895 law, if a majority of the "resident owners" of land in an area notify all other land holders in that area, the majority owners may arrange and pay for a survey to establish boundary lines and may bill the remaining owners for their proportionate share of the cost of the survey. If an owner refuses to pay his or her share, the county assessor is to collect that share "in the same manner as other taxes" to be paid to the owners who incurred the cost of the survey.

Under an 1886 law, if the "proprietors" of adjoining lands cannot agree on boundaries, any one of them may bring an action in equity in superior court to have the matter resolved. The court in such an action may order the boundaries to be established and properly marked.

A property owner may also bring a "quiet title" action to establish the ownership of land that is the subject of a boundary dispute.

Until 1975 and the adoption of the new criminal code, a particular section of the old code made it a misdemeanor to "wilfully or maliciously remove, damage or destroy" a boundary marker (former RCW 9.61.010). The 1975 law repealed this section, and many others dealing with particular types of property, and created a general crime of malicious mischief (RCW 9A.48.070, *et.seq.*). Under this law, it is a crime to "knowingly and maliciously" cause physical damage to property. If the property damage does not exceed \$50, the crime is a misdemeanor; if the damage does not exceed \$250, but is more than \$50, the crime is a gross misdemeanor; if the damage does not exceed \$1,500, but is more than \$250, the crime is a class C felony; and if the damage exceeds \$1,500, the crime is a class B felony.

Summary of Amended Bill: Several changes are made with respect to the ways in which property owners may resolve disputes over mutual boundaries and with respect to civil and criminal liability related to surveys.

The law allowing a majority of "resident owners" to force other owners to share in the cost of a survey is repealed.

If all affected owners agree as to mutual boundaries, they may document their agreement and file it with the county. In cases where owners cannot agree among themselves and end up in court, the court is expressly given authority to order the parties to use mediation.

If a court orders a survey as part of a boundary dispute resolution, the surveyors are not liable for trespass when performing the survey. When practical, however, surveyors must identify themselves and their intentions before performing the survey. Surveyors are liable for property damage caused by their negligence.

Intentionally disturbing a survey monument is a gross misdemeanor, and the offender is also liable for the cost of reestablishing the survey line.

Amended Bill Compared to Engrossed Substitute Bill: The amendment gives the court express authority to order parties to a boundary dispute to use "mediation," instead of "arbitration."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Many boundary disputes drag on for decades and are very costly to resolve. The bill will provide alternative methods for resolving these disputes more efficiently.

Testimony Against: None.

Testified: Senator Bob Morton, prime sponsor; and Glen Hudson, Washington Real Estate Association (with comments).