



## **H.B. 223**

124th General Assembly  
(As Introduced)

**Reps. Kearns, Seitz, Evans, Webster, Aslanides, Schmidt, Carano, Rhine**

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### **BILL SUMMARY**

- Repeals the partition fence law.

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### **CONTENT AND OPERATION**

The bill repeals the partition fence law. Currently, that law requires the owners of adjoining lands to build, keep up, and maintain in good repair, in equal shares, all partition fences between them unless otherwise agreed by them in writing and witnessed by two persons.<sup>1</sup> The fact that any land or tract of land is wholly unenclosed or is not used, adapted, or intended by its owner for use for agricultural purposes does not excuse its owner from the obligations that the partition fence law imposes on him as an adjoining landowner. The partition fence law does not apply to the enclosure of lots in municipal corporations or of adjoining lands both of which are laid out into lots outside municipal corporations, nor does it affect the law relating to certain railroad fences. (Sec. 971.02.)

Current law repealed by the bill establishes procedures to be followed if a person fails to build a partition fence and keep it in repair. The procedures provide that: (1) if any person fails to build a partition fence and keep it in repair, an aggrieved party may file a complaint with the board of township trustees, (2) with at least ten days' written notice to the parties, the board must visit the site, inspect the fence or premises on which it is to be built, and assign each owner his equal share, (3) the costs of this inspection must be shared equally by the parties, (4) if any person fails to pay these costs within 30 days, the township clerk must certify the amount due to the county auditor, who must place this amount on the tax

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<sup>1</sup> As used in the partition fence law, "owner" means both of the following: (1) the owner of land in fee simple, of estates for life, or of rights-of-way while used by the owners thereof as farm outlets, and (2) the Department of Natural Resources with regard to any land that it owns, leases, manages, or otherwise controls and that is adjacent to land used to graze livestock (sec. 971.01).

duplicate and collect it "as other taxes," (5) if any person fails to build or repair the portion of the fence assigned to him by the board, the aggrieved person may apply again to the board, and the board must award the contract to the lowest responsible bidder who will build the fence according to the board's specifications, or, if no responsible bids are received, the board may procure labor and materials for the work "at prevailing rates," and (6) the board must certify these costs to the township clerk who in turn must certify them to the county auditor if they are not paid within 30 days, at which time they become a lien, and the auditor must place them on the tax duplicate to be collected as other taxes and, in anticipation of collection, must order the amount due the builder paid from the county treasury. (Secs. 971.04 to 971.09.)

The partition fence law also includes several miscellaneous provisions governing fences that do the following: (1) prohibit certain types of partition fences (sec. 971.03), (2) require the county recorder to keep a "Partition Fence Record" (sec. 971.10), (3) establish procedures for providing notice to landowners (sec. 971.13), (4) address the application of the partition fence law when a property division line is in a stream of water or is on a township or county line (secs. 971.14 and 971.16), (5) establish a penalty for a township trustee who refuses or neglects to perform a duty imposed on him by the partition fence law (sec. 971.21), (6) establish provisions concerning liability for damage caused by an animal's trespass involving fenced property (secs. 971.15, 971.22, 971.23, 971.24, and 971.26), (7) regulate the planting and maintenance of hedge fences (secs. 971.27, 971.28, 971.29, and 971.30), (8) require the cutting of noxious weeds along the line of a partition fence (secs. 971.33, 971.34, 971.35, and 971.36), and (9) establish other provisions concerning fences (secs. 971.11, 971.12, 971.17, 971.18, 971.25, 971.31, 971.32, and 971.99).

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-18-01	pp. 305-306

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