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BILL ANALYSIS

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Senate Bill 512 (as enrolled)

Sponsor: Senator Bev Hammerstrom

Senate Committee: Government Operations

House Committee: House Oversight, Elections, and Ethics

PUBLIC ACT 60 of 2005

Date Completed: 7-24-06

CONTENT

The bill amended the District Library Establishment Act to do the following:

- Allow a single municipality to establish a district library if certain requirements are met.
- Allow two or more district libraries to merge under certain circumstances.
- Provide for a referendum on the question of becoming or joining a district library upon the petition of at least 5% of registered electors residing in each affected municipality; and require the referendum to include a millage request.
- Require that a proposal for a districtwide tax be certified for inclusion on the ballot at the next general election, the State primary immediately preceding the general election, or a special election held on an otherwise regularly scheduled election date.
- Require a district library to reimburse a school district for the additional costs of conducting an election for district library board members or a districtwide tax in conjunction with the regular election of a participating school district; and delete previous reimbursement requirements.
- Allow the State Librarian to dissolve a district library under certain circumstances.
- Exclude a school district from the definition of "municipality" for the purpose of establishing a new district library after January 1, 2015.

The bill took on effect July 7, 2005.

"Municipality"

The Act defines "municipality" as a city, village, school district, township, or county. Under the bill, the term will not include a school district for the purpose of establishing a new district library after January 1, 2015.

Single Municipality District

Under the Act, two or more municipalities, except two or more school districts that hold their regularly scheduled elections on different dates, authorized by law to establish and maintain a library or library services may jointly establish a district library if each of the following is satisfied:

- The governing board of the public library approves the establishment of the district library, if the proposed district contains a public library, other than a district library established under the Act, and that public library is recognized by the Department of History, Arts, and Libraries as lawfully established for purposes of the distribution of State aid and penal fines.
- The legislative body of each municipality identified in the district library agreement adopts a resolution providing for the establishment of a district library and approving a district library agreement.
- The proposed district library district does not overlap any portion of another district library district.

The bill created an exception to allow a single municipality to establish a district library.

Under the bill, except for a school district and with the approval of the State Librarian, a single municipality may establish a district library if each of the following requirements is satisfied:

- The municipality has made an assertive effort over a period of time of at least three consecutive years to form a district library with one or more other municipalities.
- The municipality has submitted to and received the State Librarian's approval of a plan of service.
- The municipality has a population of 4,500 or more.
- The municipality is otherwise qualified and meets the requirements of a district library under the Act.

The municipality also must satisfy any other requirements considered necessary by the State Librarian to ensure that a district library created under these provisions complies with the intent of the Act.

Establishing District Library; Agreement

Under the Act, participating municipalities proposing to establish a district library must file with the State Librarian an agreement that identifies the proposed library district. The agreement must provide for the creation of a board to govern the operation of the library and set forth specific information, including the identity of the municipalities establishing the library; the amount of money to be stated in the annual budget; and the percentage to be supplied by each participating municipality.

The State Librarian must review the agreement and approve or disapprove of the proposed district library district in accordance with Section 5 of the Act (which requires a response from the State Librarian as to whether the agreement conforms with the Act within 30 days of the agreement's submission).

The participating municipalities also must file with the State Librarian both of the following:

- A copy of a map or drawing that clearly shows the territory proposed to be included in the district library district.
- A map that unambiguously shows the relationship of the proposed district library district to the adjacent and constituent units of government, which include counties, cities, villages, townships, school districts, and district libraries.

The bill requires the State Librarian to review the map of the proposed district library district, as well as the agreement. The participating municipalities must cooperate with the State Librarian to correct any errors or changes in the agreement or map that the State Librarian considers necessary to comply with the Act.

Under the Act, once the State Librarian approves an agreement, the boundaries of an established district library may be amended either to provide for the withdrawal of a participating municipality or to add a participating municipality. Under the bill, the agreement, as well as the boundaries, may be amended to provide for the addition or withdrawal of a participating municipality. Also, amendments may provide for the merger of two or more district libraries.

Previously, the copy of a map or drawing showing the proposed territory could not be smaller than 8-1/2 by 13 inches or larger than 14 by 18 inches. Under the bill, it may not be smaller than 8-1/2 by 11 inches or larger than 14 by 18 inches.

Also, under the bill, the agreement must provide for the name of the district. For any district that is created on or after the bill's effective date, the name must include the word "district".

Library District Boundaries

Previously, a participating municipality other than a county could exclude from a district library district only that portion of the municipality's territory located within the boundaries of a public library recognized by the Department as lawfully established for the purposes of the distribution of State aid and penal fines, and established under the District Library Establishment Act, the Revised School Code, Public Act 164 of 1877 (which provides for city, village, and

township libraries), or Public Act 138 of 1917 (which provides for county libraries).

Under the bill, a city, village, or township (rather than a participating municipality other than a county) may exclude a portion of its territory from a district library district under these conditions.

District Library Merger

The bill authorizes two or more district libraries to merge if all of the following requirements are satisfied:

- The governing boards of the district libraries by majority vote approve that the district libraries merge and that all territory located within their jurisdictional service areas is included in the merger.
- The approving resolution is conditioned upon majority vote of approval by the governing boards of all participating municipalities, within a period of time specified in the resolution.
- By a majority vote of the members of the district library boards, the agreement is amended to reflect the merger of the libraries and the territory served by the merger.
- The amendments to the agreement include, at least, changes in board representation, the percentage of funds necessary from each participating municipality for the establishment and operation of the merged district libraries, a revised legal description of the district, and a map that clearly shows the revised service area of the new district library.
- All amendments and resolutions are submitted to the State Librarian.

If a districtwide library tax is being levied by a participating library at the time of the merger, the tax will remain in effect and may be considered as part or all of that library's contribution to the merger. A districtwide tax will be extinguished upon the approval of a merged district library districtwide tax by the majority of the electorate residing in the merged district libraries' jurisdictional limits.

Referendum

The bill provides that, upon petition by at least 5% of the registered electors residing in the affected municipality, municipalities, or the portion of a municipality, requesting a

referendum on the question of becoming a district library or joining an existing district library, the clerk of each affected municipality, upon verifying the required number of signatures on the petitions, must file a copy of the petition with the Department and submit the question of whether the municipality should become a participating municipality to the vote of the electors of the municipality at the next general election or special election called for that purpose and conducted in accordance with Michigan Election Law.

If the question of the petition relates to joining an existing district library, before circulating the petition for signatures, its supporters may submit the proposal and the petition language to the existing district library board for review and approval. The board must vote by resolution to accept or reject the proposed new participating municipality within 30 days of receiving a copy of the proposed petition. If the proposal is approved by the district library board and the referendum is passed by the electors, the district library must amend its agreement to incorporate the new participating municipality.

If the district library board has not approved the new participating municipality and the petition is submitted to the electors for approval and passes, the board of the district library must vote within 30 days following certification of the election results whether to accept or reject the new proposed participating municipality. If it is accepted, the district library must amend its agreement to incorporate the new participating municipality.

The referendum submitted to the electors must include a request for a millage to fund the new district or the municipality's obligation to the existing district. For district libraries with appointed boards, the referendum must include language regarding the appointment of new members to represent any new participating municipality.

If approved by a majority of the electors in the affected municipality voting on the question, the municipality must proceed to become a participating municipality in the manner provided under the Act. A new district library must consist of two or more municipalities and be governed by an

elected board as provided in the Act. The board must be elected within one year after date the electors approve the new district.

If a new district library is created, each participating municipality must appoint members to an interim governing board in a number proportional to its population in relationship to the entire district. The interim board must prepare and submit the agreement and map required by the Act to the Department within 180 days after the date the electors approve the new district. If the agreement and map are not submitted as required, they must be prepared by the State Librarian.

Board Vacancies

Under the Act, a vacancy in the office of a district library board member must be filled by appointment by a majority vote of the remaining board members. The vacancy must be filled until the expiration of the vacating member's term unless the vacancy occurs 140 or more days before the first regularly scheduled election of board members that follows the beginning of the term of the member vacating office and that term is four years. In that case, the vacancy must be filled by appointment only until the next date on which the term of any board member expires, and a board member must be elected at the regularly scheduled election of board members following the occurrence of the vacancy, to fill the vacancy for the remainder of the term.

Previously, the requirement for electing a new board member also applied if a school district was a participating municipality and the vacancy occurred 13 or more Mondays before the first regularly scheduled election of board members. The bill deleted that provision.

Under the Act, unless a person files a \$100 nonrefundable fee to have his or her name included on the ballot, a nomination for the office of board member must be by a petition meeting, to the extent applicable, the same requirements, including filing requirements, as a nominating petition for the office of school board member in the largest participating school district. Under the bill, the petition must be filed by 4 p.m. of the 12th Tuesday, instead of the ninth Monday, preceding the election.

Previously, a nominating petition or filing fee had to be filed with the secretary of the school board of the largest participating school district, who had to certify the names of the candidates and the date of the election to the secretary of the school board of every other participating school district and to the election officials authorized by the Act to conduct the election in each participating municipality located entirely or partly within a nonparticipating school district. Under the bill, a petition or fee must be filed with the school district election coordinator for the largest participating school district, who must certify the names of the candidates and the date of the election to the school district election coordinator of every other participating school district and to the authorized election officials.

The bill provides that an agreement may be amended to coordinate the terms and election of board members with the terms and election of other school or municipal officials.

Board Powers

The Act identifies the powers of a district library board, which previously included the authority to acquire real or personal property for use for library purposes by purchase, land contract, installment purchase contract, lease with or without option to purchase, or title retaining contract. The bill, instead, allows a board to purchase, sell, convey, lease, or otherwise acquire or dispose of real or personal property, including land contracts and installment purchase contracts.

The Act permits a board to reimburse a board member for necessary expenses that the member incurs in the performance of official duties. The board may compensate board members for attending meetings of the board and must include the amount of compensation in the annual budget. Under the bill, the board also may compensate board members for attending meetings of committees of the board.

Ballot Proposals

Under the Act, if none of the participating municipalities is a school district, a proposal for a districtwide tax may not be placed on the ballot unless the proposal is adopted by

a resolution of the board and certified by the board at least 60 days before the election to the county clerk of each county in which all or part of the district is located for inclusion on the ballot. The proposal must be certified for inclusion on the ballot at the next general election, the State primary immediately preceding the general election, or a special election, as specified by the board's resolution. The bill refers to a special election held on an otherwise regularly scheduled election date. Previously, the Act referred to a special election not occurring within 45 days of a State primary or a general election.

Under the Act, if one or more of the participating municipalities are school districts, a proposal for a districtwide tax may not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board at least 60 days before the election. The bill requires the proposal to be certified to the school district election coordinator--rather than the secretary of the school board--of the largest participating school district.

The Act requires the board to certify the proposal for inclusion on the ballot at the next regularly scheduled election of school board members in the largest participating school district or at a special election, as specified in the board's resolution. The bill refers to a special election held on an otherwise regularly scheduled election date, rather than a special election not occurring within 45 days of a State primary or a general election.

Previously, if a special election was requested, within 10 days after receiving the proposal, the school board secretary to whom the resolution was certified by the board or the clerk of the largest county had to request approval of a special election date from the county election scheduling committee of the school board secretary's school district or the clerk's county. The proposal had to be submitted to the qualified and registered electors residing in the district on the date approved by that county election scheduling committee. The bill deleted these requirements.

The bill also replaced references to the "secretary of the school board" and "officials authorized by law to conduct elections", with references to the "school district election

coordinator", in other provisions governing elections.

Cost of Elections

Previously, if a school district conducted an election for district library board members or a districtwide tax, the officials authorized by law to conduct the election had to charge the district library and the district library had to reimburse the school district for the actual costs that the school district incurred in conducting the election if one or both of the following applied:

- The school district was a participating school district and the election was not held in conjunction with a regularly scheduled election in that district.
- The school district was a nonparticipating school district conducting the election for a participating municipality located entirely or partly within the district.

Under the bill, instead, if an election for district library board members or a districtwide tax is held in conjunction with the regular election of a participating school district, the school district election coordinator authorized by law to conduct the election must charge the district library and the district library must reimburse the school district for the additional costs that the school district incurs in conducting the election.

Dissolution

The bill authorizes the State Librarian to initiate proceedings to dissolve a district library established under the Act if he or she finds one or more of the following:

- The district library does not qualify for distribution of State aid and penal fines.
- The district library board has not met within the last 12 months.
- The district library lacks the funding to provide adequate library-related services.

MCL 397.172 et al.

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FISCAL IMPACT

The bill will have no fiscal impact on State government. The bill will have no fiscal

impact on local government; however, it allows additional mechanisms for a municipality or municipalities to form a district library which, with local voter approval, may levy a local property tax millage.

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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.