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## BILL ANALYSIS

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Senate Bill 512 (as introduced 5-19-05)  
Sponsor: Senator Bev Hammerstrom  
Committee: Government Operations

Date Completed: 5-26-05

**CONTENT**

The bill would amend the District Library Establishment Act to do the following:

- Allow a single municipality to establish a district library if certain requirements were met.
- Permit amendments to an agreement establishing a district library to provide for the merging of two or more district libraries.
- Provide for a referendum on the formation of 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.
- Provide that any contract to provide library-related services to a municipality outside of the district would have to require that the outside residents compensate the district library in an amount equivalent to that paid by the average household in the district.
- 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.
- Delete a requirement that, if a school district conducts an election for district library board members or a districtwide tax, the district library reimburse a participating

school district for the actual costs of conducting the election.

- Provide for the dissolution of a district library under certain circumstances by the State Librarian.
- Exclude a school district from the Act's definition of "municipality" 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 would create 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 could establish a district library if each of the following requirements were satisfied:

- The municipality had made an assertive effort over a period of time of at least three years to form a district library with one or more other municipalities.
- The municipality had submitted to and received the State Librarian's approval of a plan of service.
- The municipality had a population of 5,000 or more.
- The municipality was otherwise qualified and met the requirements of a district library under the Act.
- Any other requirements considered necessary by the State Librarian to ensure that a district library complied with the intent of the Act.

#### Establishing District Library; Agreement

Under the Act, an agreement to establish a district library must provide for the creation of a board to govern the operation of the district library and set forth specific information, including the identity of the municipalities establishing the district library; the method of selection of board members; the amount of money to be stated in the annual budget; the percentage to be supplied by each participating municipality; the procedure for amending the agreement; and any distribution of district library assets to take place upon the withdrawal of a participating municipality.

A district library agreement may provide that the district library board is abolished and the district library terminates unless, by a date stated in the agreement, the district electors approve a district library millage rate at not less than a minimum number of mills stated in the agreement.

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 all of the following:

- A copy of an agreement establishing a library district that identifies the proposed district.
- A copy of a map or drawing that is not smaller than 8-1/2 by 13 inches or larger than 14 by 18 inches and 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.

Under the bill, the copy of a map or drawing could not be smaller than 8-1/2 by 11 inches.

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

Under the Act, once an agreement is approved by the State Librarian, 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, could be amended to provide for the addition or withdrawal of a participating municipality. Additionally, amendments could provide for the merging of two or more district libraries.

Also, under the bill, the agreement would have to provide for the name of the district. The name would have to include the word "district".

#### Referendum

The bill provides that, upon petition by at least 5% of the registered electors residing in each of the affected municipalities, 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, would have to 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.

The referendum submitted to the electors would have to include a request for a millage to fund the new district or the municipality's obligation to the existing district.

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

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

The required board would have to be elected within one year from the date the electors approved the new district.

#### Board Vacancies

Under the Act, a vacancy in the office of a district library board member must be filled until the expiration of the vacating board member's term by appointment by a majority vote of the remaining board members. However, if the vacancy occurs 140 or more days or, if a school district is a participating municipality, 13 or more Mondays before the first regularly scheduled election of board members that follows the beginning of the term of the board member vacating office and that term is four years,

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 next following the occurrence of the vacancy to fill the vacancy for the remainder of the term.

The bill would delete the requirement that a board opening be filled 13 or more Mondays before the first regularly scheduled election if a school district is a participating municipality.

Under the Act, except for a person who 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. However, the petition must be filed by 4 p.m. of the ninth Monday preceding the election. Under the bill, the petition would have to be filed by 4 p.m. of the 12<sup>th</sup> Tuesday preceding the election.

Currently, a nominating petition or filing fee must be filed with the secretary of the school board of the largest participating school district, who must 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 that is located entirely or partly within a nonparticipating school district. Under the bill, the filings would have to be with the school district election coordinator for the largest participating school district, who would have to certify the names of the candidates and the date of the election to the school district election coordinator of every other participating school district.

An agreement could 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 include the authority to do the following:

- Establish, maintain, and operate a public library for the district.
- Appoint and remove a librarian.
- 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.
- Enter into a contract to receive library-related service from or give library-related service to a library or a municipality within or without the district.
- Propose and levy upon approval of the electors, as provided in the Act, a tax for support of the district library.
- Borrow and issue money pursuant to the District Library Financing Act.

The bill would delete the power of a board to acquire real or personal property and instead would allow it to purchase, sell, convey, lease, or otherwise acquire or dispose of real or personal property for use for library purposes.

Additionally, any contract to provide library-related services to a municipality outside of the district that was renewed or entered into after one year from the bill's effective date would have to require the district to be compensated by the residents outside the district by an amount equivalent to the amount paid on average by residents per household of the district. In calculating the contract amount, the district library could not include funds received through penal fines and other State aid.

Currently, a board may 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 could compensate board members for attending official meetings of the board or 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 not occurring within 45 days of a State primary or a general election, as specified by the board's resolution.

Under the bill, the proposal would have to 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, as specified by the board's resolution.

Currently, 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 to the secretary of the school board of the largest participating school district. Under the bill, the proposal would have to be certified to the school district election coordinator of the largest participating school district.

Under the Act, the board must 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 not occurring within 45 days of a State primary or a general election, as specified in the board's resolution. The bill would refer to a special election held on an otherwise regularly scheduled election date.

Currently, if a special election is requested, within 10 days after receiving the proposal, the school board secretary to whom the resolution was certified by the board or the county clerk of the largest county must 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 must be submitted to the qualified and registered electors residing in the district on the date approved by that county

election scheduling committee. The bill would delete these requirements.

The bill also would remove references to the "secretary of the school board" of a participating school district from the Act's election provisions and replace them with "school district election coordinator".

#### Cost of Elections

Under the Act, if a school district conducts an election for district library board members or a districtwide tax, the officials authorized by law to conduct the election must charge the district library and the district library must reimburse the school district for the actual costs that the school district incurs in conducting the election if one or more of the following apply:

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

Under the bill, the requirement would apply only if the school district were a nonparticipating school district.

#### Dissolution

Under the bill, the State Librarian could initiate proceedings to dissolve a district library established under the Act if he or she found one or more of the following:

- The district library did not qualify for distribution of State aid and penal fines.
- The district library board had not met within the last 12 months.
- The district library lacked the funding to provide adequate library-related services.
- Any other appropriate factors considered by the State Librarian to warrant the dissolution of the district.

MCL 397.172 et al.

Legislative Analyst: J.P. Finet

#### **FISCAL IMPACT**

The bill would have no fiscal impact on State government. The bill would have no fiscal impact on local government; however, it would allow additional mechanisms for a municipality or municipalities to form a district library which, with local voter approval, could levy a local property tax millage.

Fiscal Analyst: Elizabeth Pratt

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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.