

# Legislative Analysis



## REVISE POPULATION THRESHOLD OF TOWNSHIP PUBLIC LIBRARY

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House Bill 5573 (reported without amendment)

*(Enacted as Public Act 191 of 2012)*

Sponsor: Rep. Anthony G. Forlini

Committee: Local, Intergovernmental, and Regional Affairs

Complete to 5-4-12

## A SUMMARY OF HOUSE BILL 5573 AS REPORTED FROM COMMITTEE 5-3-12

Now under the law, a charter township board in a county having a ***population of between one million and two million*** may create and maintain a free public library if the township had not, for the previous ***five years***, been located in the service area of an already established public library. To do so, the township board must adopt an ordinance or pass a resolution, and then file it with the Department of History, Arts, and Libraries within 10 days.

House Bill 5573 would amend the Charter Township Act (MCL 42.13a) to revise these criteria so that a charter township board in a county having a ***population between 750,000 and two million*** people could maintain a free public library if the township had not, for the previous ***three years***, been located in the service area of an already established public library. [The population change applies to Macomb County.] To do so, the township board would file its ordinance or resolution with the Michigan Department of Education. [The Department of History, Arts, and Libraries has been dissolved and its functions dispersed.]

## FISCAL IMPACT:

In the instant case, the bill would allow the Harrison Charter Township Public Library to be formally "established by law" by the township board of trustees.<sup>1</sup> The library is a volunteer-run library that began operating following the dissolution of the Macomb County Library on October 31, 2008.<sup>2</sup> To date, the township library has been supported by overdue fines, library card fees, book sales and other local fundraisers.<sup>3</sup> The library is currently not "established by law" or "lawfully established" which is a necessary condition (but not the only condition) for the library to be eligible to receive state aid to libraries under 1977 PA 89, constitutionally-designated penal fine revenue<sup>4</sup>, and revenue

<sup>1</sup> <https://sites.google.com/a/htplib.org/htplib/>

<sup>2</sup> <http://www.macombcountymi.gov/clerksoffice/boc/20080925BOC.pdf>

<sup>3</sup> <http://harrison-township.org/2012%20budget.pdf>

<sup>4</sup> Article 8, Section 9 of the State Constitution. See, Section 8379 of the Revised Judicature Act (MCL 600.8379), Section 909 of the Michigan Vehicle Code (MCL 257.909) and Public Act 59 of 1964 (MCL 397.31 et seq.).

from civil infractions written to commercial vehicles under local ordinance under the Motor Carrier Safety Act and the Michigan Vehicle Code.<sup>5</sup>

At a minimum, with passage of the bill, the library would be eligible for penal fine revenue and revenue from civil infractions of local ordinances written to commercial vehicles as provided by law, presuming that the library remains open for at least 10 hours per week.<sup>6</sup> Generally speaking, penal fine revenue is collected by county treasurers and distributed to local libraries on a per-capita basis, based on the population of each library's service area (e.g. a single township or library district spanning several municipalities, etc.). Where statute directs civil infraction revenue to local libraries, funding is distributed in the same manner as penal fine revenue.<sup>7</sup>

By law, penal fine revenue is distributed on a per-capita basis, according to each library's legal and contracted service area. For municipalities within a county that are unserved by a local library, (e.g. it does not have its own library and does not contract with another library for services), penal fine revenue is held in escrow by the county treasurer until library service is available in the municipality. As an unserved area, penal fine revenue otherwise available to Harrison Charter Township is being held in escrow by the Macomb County treasurer. The legal establishment of the library by the township board of trustees would make those funds available to the township library. The Macomb County Treasurer's office reports that it currently has about \$71,000 held in escrow for Harrison Township, which would be released by the county after the Library of Michigan certifies to the county that the library is eligible for penal fine revenue. The county treasurer's office also estimates that the library would be eligible to receive about \$22,000 in penal fine revenue annually.

While enactment of the bill would make the library eligible to receive penal fine revenue, enactment of the bill alone would not automatically make the library eligible to receive state aid under the State Aid to Libraries Act, 1977 PA 89. The library would be a "lawfully established" public library under PA 89, but would not meet other requirements on local support and library personnel. Generally, under the act, public libraries receive a per capita grant, and receive an additional grant per capita to pay for services provided by a regional cooperative library.<sup>8</sup> To be a member of a cooperative library, local libraries must maintain a minimum local support equivalent to 3/10 of a mill in property taxes. Local support includes penal fine revenue, tax sources, as well as gifts and endowment funds. The library would not meet the local support requirements to be a member of the

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<sup>5</sup> See Section 8379 of the Revised Judicature Act (MCL 600.8379), Section 909 of the Michigan Vehicle Code (MCL 257.909) and State Court Administrative Office (SCAO), *Distribution of Fines and Costs in District and Municipal Courts*.

<sup>6</sup> See Section 1 of 1964 PA 59, MCL 397.31. The library is currently open at least 10 hours per week.

<sup>7</sup> For the purpose of this summary, "penal fine" refers to both penal fines and fines from traffic citations directed to libraries.

<sup>8</sup> Both the public libraries grant [MCL 397.566(2)] and the cooperative services grant [MCL 397.566(4)] are set at \$0.50 per capita. However, state aid to libraries payments are prorated based on available appropriations. The prorated per capita rate is \$0.22 in FY 2011-12. The township had population of 24,587 according to the 2010 decennial census.

regional cooperative library, and would not be eligible to receive state aid funds for cooperative services.<sup>9</sup>

Additionally, the department's State Aid to Libraries rules provide that public libraries meet certain staffing requirements to be eligible to receive state aid.<sup>10</sup> A Class 4 public library – i.e. one that serves a population between 12,000 and 25,999 – must employ a library director who possesses a master's degree from a library program accredited by the American Library Association and employ at least one other person with at least one year's experience in library work. Given that the library does not employ any staff, it would not meet this requirement.

### **POSITIONS:**

The Michigan Townships Association supports the bill. (5-3-12)

Harrison Township (in Macomb County) supports the bill. (5-3-12)

The Clinton-Macomb Public Library (in Macomb County) supports the bill. (5-3-12)

The Michigan Department of Education supports the bill. (5-3-12)

The Michigan Library Association is neutral on the bill. (5-3-12)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>9</sup> According to the Macomb County Equalization Department, the 2011 taxable value of the township is \$878,798,228. Three-tenths of the mill equates to \$263,639.

<sup>10</sup> [http://www7.dleg.state.mi.us/orr/Files/AdminCode/105\\_78\\_AdminCode.pdf](http://www7.dleg.state.mi.us/orr/Files/AdminCode/105_78_AdminCode.pdf)