



**House
Legislative
Analysis
Section**

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**DEPT. OF HISTORY, ARTS,
AND LIBRARIES**

**House Bill 4939 as introduced
House Bill 4940 (Substitute H-2)
Sponsor: Rep. Thomas M. George**

**House Bill 4941 (Substitute H-1)
Sponsor: Gerald Van Woerkom**

**House Bill 4942 (Substitute H-1)
Sponsor: Rep. LaMar Lemmons**

**House Bill 4943 (Substitute H-1)
Sponsor: Rep. Mary Ann Middaugh**

**House Bill 4944 (Substitute H-1)
Sponsor: Rep. Jerry O. Kooiman**

**House Bill 4945 as introduced
Sponsor: Rep. Alan Sanborn**

**House Bill 4946 as introduced
Sponsor: Rep. Patricia Birkholz**

**House Bill 4947 as introduced
Sponsor: Rep. Michael Bishop**

**House Bill 4948 as introduced
Sponsor: Rep. Steve Vear**

**House Bill 4949 as introduced
Sponsor: Rep. Joseph Rivet**

**House Bill 4950 as introduced
Sponsor: Rep. Paula K. Zelenko**

**House Bill 4951 as introduced
Sponsor: Rep. Mickey Mortimer**

**House Bill 4952 as introduced
Sponsor: Rep. James Koetje**

**House Bill 4953 as introduced
Sponsor: Rep. Judson Gilbert III**

**House Bill 4954 as introduced
Sponsor: Rep. Bill McConico**

**House Bill 4955 (Substitute H-1)
Sponsor: Rep. Douglas Bovin**

**House Bill 4956 (Substitute H-1)
Sponsor: Rep. Susan Tabor**

**House Bill 4957 (Substitute H-1)
Sponsor: Rep. Samuel Buzz Thomas**

**Committee: Commerce
First Analysis (6-26-01)**

House Bills 4939-4957 (6-26-01)

THE APPARENT PROBLEM:

In his January 2001 State of the State address, Governor Engler called for the creation of a new state department, the Department of History, Arts, and Culture, as “a focal point to preserve Michigan’s heritage for the benefit of future generations.” The governor proposed harnessing the resources of the Library of Michigan, the Bureau of History, the Mackinac Island State Park Commission, the state archives, underwater preserves, and the Michigan Film Office, among other agencies, in order to form a new department that would create “a needed focus

and a well-deserved stature” for the preservation of history, the creation of art, and the development of culture. In May, the governor issued an executive order (number 2001-1) creating the new department and transferring to it the functions of a wide variety of agencies dispersed throughout state government. The executive order takes effect on August 5, 2001. (See Background Information) Complementary legislation has been also been introduced to complete the process and to modify the name of the department

to reflect the key role of the state library and associated library functions.

THE CONTENT OF THE BILLS:

The package of bills would create in statute a new executive department, the Department of History, Arts, and Libraries, and transfer various programs and functions to the new department from other executive agencies. In addition, the package would transfer the operation of the Library of Michigan and various other library programs from the legislature to the new executive department. House Bills 4939 and 4942-4957 are tie-barred to House Bill 4941, the bill that would create the new department. House Bill 4941 is tie-barred to House Bill 4940. (House Bill 4940, which would transfer the state library, does not contain a tie-bar.)

House Bill 4941 would create a new act, the History, Arts, and Libraries Act. It would create the new Department of History, Arts, and Libraries, and specify that the department would be headed by a director who would be appointed by, and serve at the pleasure of, the governor. The department would be charged with carrying out the powers, duties, functions, and responsibilities as provided in Executive Order No. 2001-1, and as otherwise provided by law.

House Bill 4939 would amend the Management and Budget Act (MCL 18.1114 and 18.1219) to transfer the management and operation of the Michigan Library and Historical Center from the Legislative Council to the new department. The bill would also update references to the former Roosevelt Building (to refer to the grounds where that building stood before it was demolished).

House Bill 4940 would amend the Library of Michigan Act (MCL 397.12 et al.) to transfer the library to the new Department of History, Arts, and Libraries. The act would continue to specify that the library would be charged primarily with providing reference services to the legislative branch, and that in addition it is to provide those services to the executive and judicial branches of government and the general public. The library board of trustees would be altered somewhat. It currently consists of four legislators, seven librarians representing different kinds of libraries, the chief justice of the supreme court or a designee, the administrator of the Legislative Council, and two members of the public. The new board would consist of one member appointed by each of the four legislative leaders, the department director, the chief justice or his or her

designee, five librarians representing different kinds of libraries, and two public members. The library board currently makes recommendations on the budget to the legislative appropriations committees and recommendations on a variety of other matters to the Legislative Council. Under the bill, the board would make the recommendations on the same matters to the new department and would make recommendations on the library budget to the department. It would also make recommendations on any proposed rules governing library operations. The bill specifies that the state librarian would be appointed by the governor in consultation with the library board (rather than by the Legislative Council in consultation with the board). Further, the bill would remove from the act language specifying that the budgeting functions of the library are the responsibility of the state librarian, and that the council administrator and the librarian are to coordinate the activities of the library with the Legislative Council. Employees of the library on the bill's effective date would be transferred to the new department in accordance with civil service rules, and would be assumed into the classified civil service. Finally, the bill would repeal a section of the act that requires the state librarian to report annually to the Legislative Council and to the legislature on the operations of the library and on progress made in automating the operations of the library.

House Bill 4942 would amend the District Library Establishment Act (MCL 397.172 et al.) and House Bill 4943 would amend the State Aid to Public Libraries Act (MCL 397.552) to transfer the functions of the Legislative Council under those acts to the new Department of History, Arts, and Libraries.

House Bill 4944 would amend the Michigan Historical Commission act (MCL 399.1 et al.) to transfer the commission from the Department of State to the new department. It would also add three members to the commission, one to be appointed by the Speaker of the House of Representatives, one to be appointed by the Senate Majority Leader, and the director of the new department. The current six members would be continue to be appointed by the governor with the advice and consent of the Senate, but one of the members would have to be a representative of the Historical Society of Michigan chosen by the governor from a list of three nominees from the society. The bill would also require the state treasurer to direct the investment of the Michigan Heritage Publications Fund (from sales of Michigan History magazine) and credit interest and earnings from fund investments back to the fund.

House Bill 4945 would amend the Local Historic Districts Act (MCL 399.201a et al.) to transfer responsibilities under that act from the Bureau of History in the Department of State to the new department.

House Bill 4946 would amend a provision of the downtown development authority act (MCL 125.1679) concerning the preservation of historic sites to include references to the new department rather than to the secretary of state.

House Bill 4947 would amend the Single Business Tax Act (MCL 208.39c) and House Bill 4948 would amend the Income Tax Act (MCL 206.266) to change references from the Department of State to the new department in provisions concerning tax credits for the preservation of historic resources.

House Bill 4949 would amend the Management and Budget Act (MCL 18.1284 et al.) to transfer responsibility for records management, retention, disposal, archiving, and so forth from the Department of State to the new department. House Bill 4950 would likewise amend the Records Media Act (MCL 24.402) to transfer functions under that act from the Department of State to the new department.

House Bill 4951 would amend Public Act 69 of 1976 (MCL 399.111 et al.), concerning the acquisition and operation of state historic sites, to transfer responsibilities under the act from the secretary of state to the new department.

House Bill 4952 would amend a provision of the Freedom of Information Act (MCL 15.243) exempting the disclosure of information that would reveal the exact location of archaeological sites to transfer certain responsibilities from the secretary of state to the new department.

House Bill 4953 would amend the Natural Resources and Environmental Protection Act (MCL 324.76102 et al.) to transfer responsibilities relating to aboriginal records and antiquities from the Department of State to the new department.

House Bill 4954 would amend the Revised Judicature Act (MCL 600.2137) to transfer responsibilities related to the reproduction and destruction of court records from the Department of State to the new department.

House Bill 4955 would amend the Michigan Iron Industry Museum Advisory Board Act (MCL 399.73 and 399.74) to transfer the advisory board from the

Department of State to the new department. The bill would add two members to the board, one appointed by the Speaker of the House of Representatives and one appointed by the Senate Majority Leader. Currently, no more than five members (of the nine) can be of the same political party. Under the bill, no more than six (of the eleven) could be of the same political party.

House Bill 4956 would amend the Natural Resources and Environmental Protection Act (MCL 324.76501 et al.) to transfer the Mackinac Island State Park Commission from the Department of Natural Resources to the new department. It also would add two members to the commission, one appointed by the Speaker of the House of Representatives and one by the Senate Majority Leader. The bill would also place language in the act specifying that the park commission would control and manage the Mill Creek historical site near Mackinac City (this property was previously transferred to the park commission by land conveyance under Public Act 285 of 1975). Further, the bill specifies that a person who violated a rule promulgated by the park commission would be responsible for a civil infraction and could be ordered to pay a civil fine of up to \$500.

House Bill 4957 would amend the Michigan Freedom Trail Commission Act (MCL 399.82 and 399.83) to transfer the commission from the Department of State to the new department. The bill would add two members to the commission, one appointed by the Speaker of the House of Representatives and one by the Senate Majority Leader. Also the director of the new department would take the place of the secretary of state on the commission.

BACKGROUND INFORMATION:

Governor Engler's Executive Order 2001-1, which takes effect August 5, 2001, contains the transfers included in the bills in this package, except for the library transfers, but also contains other transfers not included in the legislation. For example, statutory authority, powers, duties, functions and responsibilities of the secretary of state, Department of State, and Michigan Historical Center with regard to the state historic preservation office found in the federal National Historic Preservation Act of 1966 and the rules and regulations associated with that act would be transferred to the new department. Also transferred to the new department would be the powers and functions of both the Michigan Council for Arts and Cultural Affairs (now in the Department of Consumer and Industry Services) and the Office of

Film and Television Services (from the Michigan Strategic Fund). Functions of the Michigan Historical Commission under a series of acts not amended by the package of bills would also be transferred to the new department, including those dealing with the registration of historic sites, local historic districts, the records of the Grand Army of the Republic, records of the United States Land Office, and records of the U.S. Public Survey Office.

The executive order requires the director of the new department and the directors of the departments and agencies from which authority is being transferred to jointly identify program positions and administrative function positions that will be transferred and to develop an agreement specifying the positions by the effective date of the order. The transfers must be implemented no later than 120 days from the effective date of the order. The director of the new department can request the assistance of the Departments of Consumer and Industry Services, State, Natural Resources, and Management and Budget with respect to personnel, budgeting, procurement, information systems, and other management-related functions and those departments must provide the assistance. The state budget director is required to determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the current fiscal year. The text of the executive order can be found at www.state.mi.us/migov/gov.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the current-year appropriations for transferred programs are as follows: Department of State, \$7,878,800 (with 74.7 full-time equivalent employees, or FTE's); Department of Natural Resources, \$3,404,800 (with 48 FTE's); and the Legislature - Library of Michigan, \$39,916,700 (with 140 FTE's). The HFA also says that the bills would create additional administrative, building occupancy, and worker's compensation costs, although they are indeterminate at present. There are also potential costs to the Legislative Council for positions currently shared by the Library of Michigan and the Legislative Council. (Fiscal note dated 6-13-01)

ARGUMENTS:

For:

In a recent press release announcing the legislation in this package, Governor Engler said, "This is much

more than just another government reorganization". He made the following points in support of the new department:

"We know that knowledge of history, the arts, and culture is fundamental to human enrichment and to a well-rounded education. We need to know our heritage, because it tells us who we are, what timber we are made of, what we can dream and hope to realize. Second, we know that encouraging the preservation of history, creation of art, and development of culture makes Michigan an even more interesting and desirable place in which to travel and live. The growth of cultural tourism bears this out. Third, we know that good stewardship at the state level involves concern for the integrity of Michigan's many historic sites, archives, and other cultural resources and treasures."

In his State of the State address, Governor Engler said that "this new department will become the focal point to preserve Michigan's heritage for the benefit of future generations". The governor has said that the status of the state's history, arts, and cultural programs can be raised if the programs that are currently spread among a variety of agencies and departments are organized within one department. This package accomplishes that.

Against:

There have been concerns about the transfer of the state library from the legislature. It was moved under the jurisdiction of the legislature nearly 20 years ago because its supporters considered it to be neglected by the executive branch (notably, the Department of Education). Today its supporters point to the accomplishments made over those years of association with the legislature, including a new state library building, technological advances, and partnerships within the state's library community. The state library and its information technology systems are said to be in the forefront nationally. Supporters want to see the excellence of the library system maintained and the current library functions continued. They have urged the adoption of a process that supports the nonpartisan selection and support of a highly qualified state librarian. Further, it should be noted that the library plays an important role in the operation and maintenance of the legislature's web site. Is it appropriate for the legislature to place those functions in the executive department? (Or, will the staff devoted to those functions stay within the Legislative Council?) The current arrangement also puts a priority on research and reference services for the legislature. Will this continue?

There are also concerns about the future funding of libraries. Libraries depend, based on statute and tradition, on penal fines through a system involving the legislature and local judges. There are concerns this system could be disturbed. The system also receives federal funds, and there are concerns these funds could be diverted to offset administrative costs, as reportedly happened decades ago when the library was part of an executive department. In general, there remain among some library representatives a lot of questions (and nervousness) about the administration of the state library network after this transfer. Library representatives hope to continue discussions with state policy makers on these subjects.

Response:

The state library will in fact be the largest component of the new department, in some ways the centerpiece, so it is not likely to be ignored or neglected. The title of the department has been revamped to reflect the importance of libraries. Libraries are a natural fit with history and the arts. The state library, say proponents of the new department, has the largest collection of materials related to Michigan history, and in the Internet age, the library is the portal through which access can be gained to primary sources, as well as other history-related information. In its current form, House Bill 4940, which would transfer the state library to the new department, retains the existing language specifying that the library “is charged primarily with providing reference services to the legislative branch of government and, in addition shall provide those services to the executive and judicial branches of state government and the general public”. There will continue to be a board of trustees for the state library with representatives from the legislature, various kinds of libraries, and the general public (as well as the chief justice of the state supreme court). This body will now advise and make recommendations to the governor, instead of to the Legislative Council, and it will have a role in the selection of the state librarian. It will also have a role in budget deliberations and in the formation of rules that govern departmental operations. As to the legislative web site, that is the responsibility of the Legislative Council, and that body will determine the nature of the site’s operation.

POSITIONS:

The Executive Office supports the proposal. (6-26-01)

The Department of State supports the transfer of functions to the new department. (6-20-01)

ArtServe Michigan (an alliance for arts education, artists, volunteers, and cultural advocacy) supports the creation of the new department. (6-12-01)

The chair of the board of trustees of the Library of Michigan testified that a majority of the board supports the proposal. (6-26-01)

A representative of the Library Network testified in support of the proposal. (6-26-01)

A representative of the Woodlands Library Cooperative has indicated support for the bill. (6-26-01)

The Michigan Library Association is unable to take a position at present but has concerns about the proposal. (6-26-01)

Analyst: C. Couch

■ 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.