



**House
Legislative
Analysis
Section**

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**LOWER MILLAGE CAP IN
DISTRICT LIBRARY AGREEMENT**

**House Bill 5336 as enrolled
Public Act 540 of 2002
Second Analysis (7-29-02)**

**Sponsor: Rep. David Mead
Committee: Local Government and
Urban Policy**

THE APPARENT PROBLEM:

When it took effect in 1989, the District Library Establishment Act replaced Public Act 164 of 1955, which had previously provided for the creation and maintenance of district libraries. The act allows two or more municipalities, with the exception of school districts in certain cases, to jointly establish a district library by agreement, as long as each of the municipalities is legally authorized to establish and maintain a library or library services. A district library established under the act may propose to levy a tax on all taxable property in the district in order to raise some or all of the money necessary for the creation and operation of such a library. As amended in 1994, the act allows a district library to levy a districtwide tax for up to four mills, if approved by voters. The act also states that a districtwide tax in effect or authorized to be levied by a district library established under the provisions of the old district library act may be levied at the rate originally authorized under that law without being subject to voter approval.

A municipality or part of a municipality other than a school district may become a party to an existing agreement under certain conditions. Municipalities may wish to join established districts in order to offer their residents full access to the wide range of services that libraries provide without having to build and maintain their own libraries. A district library may envision widening its service area as a way to capture a larger tax base, which in turn would allow the library to increase its holdings or offer additional services. Current law states that if the established district has levied a districtwide library tax, the library board is to condition acceptance of the municipality or part thereof on the approval of a majority of voters in the municipality or part of the municipality who vote on the proposal.

According to committee testimony, conditioning acceptance on the approval of a tax levied at the

district's current rate constitutes an obstacle for some libraries that would like to expand their districts and for some communities that would like to join existing districts. Many people believe that the current law works far better when an existing district and interested municipality have roughly equivalent property values than it does when a district and municipality have unequal property values. For instance, representatives of the Benzie Shores District Library acknowledge that many of the townships surrounding the library's district have far higher property values than those in the district. They suggest that neighboring township governments are (understandably) reluctant to ask their residents to approve the existing districtwide tax rate when the library's representatives themselves acknowledge that by adding even one of its neighbors to the existing district, the library could increase its revenue and "serve more people with more resources" even if the current rate was halved. As the library's representatives argue, if a library district has lower property values than a municipality seeking to join the district, it may well be possible to simultaneously improve library services, expand the number of residents served by the library, and reduce the existing tax rate. Other libraries and municipalities might decide that it would not be feasible to expand a library district unless the existing tax rate was increased.

In a separate matter, until recently the Genesee (County) District Library and Flint District Library boards had been discussing the possibility of merging the two library systems, an idea that has been floated and vigorously debated for twenty years. Two years ago voters in the Flint District Library District approved a 2.9 mill tax, which provides operating revenue for the Flint Public Library and its three branches. According to news reports, some people who voted for the tax expected the Genesee and Flint District Library boards to reach a merger agreement

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by December 31 of this year when the tax is set to expire. When negotiations fell through, the Flint District Library board decided to seek a districtwide library millage of 2.9 mills, including 2 mills in perpetuity and .9 mills for eight years. Proponents of the millage request argue that Flint needs the money to maintain its strong public library system in order to acquire the books and other materials, employ the librarians, and provide the services that have made the library a focal point of civic pride. Many supporters suggest that while merging the two systems might improve the outlying county library branches, the city library would surely be harmed. Opponents of the millage believe that a request for 2 mills in perpetuity is excessive, especially when one considers Flint's financial difficulties. Some opponents resent the request because they believe that the 2.9 mill request in 2000 was intended as an interim solution while the two boards came to an agreement on a merger plan. Both sides acknowledge that voters' refusal to approve the millage request would be a severe blow to the Flint District Library, and that the library would have little choice but to merge with the county library. If the two boards agreed on a merger plan, they could work out an agreement to combine the libraries' operations under the act's current provisions, but some people believe that the debate between the two boards has become so contentious that the decision should be left to the county and participating municipal governments and voters in the districts.

Legislation has been introduced to allow a district library district to expand the district and to change the number of mills authorized in its existing agreement if the voters of the existing district and the voters of the various jurisdictions seeking to join the district approve the measure. The legislation would also create a procedure for consolidating certain district libraries that requires the approval of the county and local governments and voters but does not require library board approval.

THE CONTENT OF THE BILL:

House Bill 5336 would amend the District Library Establishment Act (MCL 397.183) to allow an existing district library agreement to change the number of mills authorized in the agreement if one or more municipalities or parts thereof joined the existing district library district. The change in the number of mills to be levied in the district would be contingent on the approval by a majority of the voters of the existing district who vote on the question and on the approval of a majority of the voters of each municipality or part of a municipality seeking to join

the existing district who vote on the question. Defeat of the proposal by the electors of the existing district would not have any effect on the validity of the library's continued levy at the previously authorized rate.

House Bill 5336 would also allow a county with a population of between 400,000 and 500,000 (Genesee County, according to U.S. Census data for 2000) and one or more other participating municipalities to jointly establish a consolidated district library out of two or more district libraries. The original district libraries' districts would have to be located wholly within the participating county, and the consolidated district library district would have to include the entirety of each of the district libraries' districts. The legislative body of each municipality identified in the consolidated district library agreement would have to adopt a resolution providing for the establishment of the consolidated district library and approving the agreement. The municipalities participating in the consolidated district library would have to include at least one municipality, which could be the county, from each district library that would be included in the consolidated district library. A consolidated district library would be a district library established under the District Library Establishment Act, and except where it is noted otherwise, other sections of the act would apply to the consolidated district library. Other provisions relating to the creation of a consolidated district library are summarized below.

Voter approval. Establishment of the consolidated district library would have to be approved by a majority of the electors of the district of each district library included in the consolidated district library. It would also have to be approved by a majority of the electors of each participating municipality in a district library included in the consolidated district library, if the municipality levies a district library tax or has authorized a tax to be levied.

Agreement. A consolidated district library agreement would generally have to comply with requirements for district library agreements. Like a standard district library agreement, a consolidated district library agreement could provide for the dissolution of the consolidated district library board and the termination of the library if the district's electors did not approve a library millage at a rate at or above a minimum stated in the agreement. If the agreement contained such a provision, it would have to specify the subsequent distribution of the library's net assets and contain a plan for continuing public library service to all residents of the district after

termination. The agreement would have to specify an establishment date for the consolidated district library, which could be the date on which the electors approved its establishment, as described above. It would also have to specify a date (or dates) on which individual district libraries being consolidated into the library would cease providing library services.

Establishment and establishment date. The board of commissioners of a county proposing to join in establishing a consolidated district library, on behalf of the participating municipalities proposing to establish the library, would have to file the agreement with the state librarian, following procedures for filing district library agreements currently set forth in the act. The state librarian would be required to approve the agreement if it conformed to the act's requirements and send a written statement of approval to the county board of commissioners within 30 days of receiving the agreement.

The consolidated district library would be established on the later of the following:

- the establishment date specified in the consolidated district library agreement; or
- the earlier of (1) the date on which the county board of commissioners received notice of the state librarian's approval of the agreement or, if the state librarian did not respond, (2) 30 days after the date on which the state librarian received the agreement.

As noted above, the consolidated district library agreement would have to specify the date on which a district library being consolidated into the consolidated district library would cease to provide library services. On that date, the board of the district library would be dissolved, and the district library's assets and liabilities would be transferred to the consolidated district library; the bill sets forth procedures for the distribution of such assets.

Contracts entered into by district library preparing to consolidate. If a district library being consolidated into the consolidated district library entered into a contract after the requirements for establishment of the consolidated district library had been met, the consolidated district library could rescind the contract within 60 days after the consolidated district library was established.

Board. Like a standard district library agreement, a consolidated district library agreement would have to provide for the establishment of a library board. The agreement could establish the library board before the

library's establishment date in order to "prepare" for the library's establishment. In preparing for the library's establishment, the board could enter into contracts that would become effective on or after the date on which the library was established, but the board could not levy a tax. A consolidated district library would be a successor district library to the district libraries that were consolidated.

Board members. A consolidated district library agreement would have to set forth the method of selection of board members—either election or appointment. If board members were to be appointed, the board would have to consist of between five and nine members. The agreement could authorize one or more board members to be appointed by a municipality that was a participating municipality in a district library included in the consolidated district library, even if that municipality was not participating in the consolidated district library.

Tax. A consolidated district library could not levy a tax that was authorized for a district library included in the consolidated district library. A ballot question for approval of the establishment of a consolidated district library could include authorization for a districtwide tax for the library, but a tax authorization could also be stated as a separate question. A question whether to approve the establishment of a consolidated district library, and, prior to the establishment of the library, a proposal for authorization of a districtwide tax for the library, could be submitted to the electorate through adoption of a resolution of, and certification by, the county board of commissioners. (If the proposal was submitted to the electorate in this manner and the tax was authorized and levied, the tax would not be a county tax as distinct from a district library tax.) After a consolidated district library was established, any ballot proposal for a districtwide tax for the library would have to be adopted and certified by the library's board. If a tax was authorized, the board of the consolidated district library would levy the tax. A consolidated district library could not levy a tax before the boards of all the district libraries being consolidated into the consolidated district library were dissolved.

Elections. For the purposes of certain sections of the District Library Establishment Act having to do with elections, elections pertaining to a consolidated district library would be considered as being for a district in which none of the participating municipalities were school districts, even if a participating municipality actually is a school district.

If a consolidated district library was established, the costs of an election on whether to approve a resolution providing for establishment of the library would be charged to and reimbursed by the library as provided for in the case of a standard district library's election for board members or for approval of a districtwide tax. If voters did not approve a resolution and the library was not established, costs of the election would be charged to and reimbursed by the county. Costs to be charged and reimbursed would include the costs of any proposal for a districtwide tax for the consolidated district library submitted to the electorate at the election.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal impact on state government. The fiscal impact on local units of government is indeterminate as there is no information that would indicate how many existing district library agreements may be changed. The financial impact on local government within Genesee County is also indeterminate as there is no indication as to what districtwide tax would be levied. (7-25-02)

ARGUMENTS:

For:

Currently the District Library Establishment Act prevents district libraries from changing the amount of taxes levied on property owners when the libraries seek to expand their districts, even when charging the same rate on an expanded district would yield more money than the libraries would know how to spend. The bill would acknowledge that by bringing in surrounding communities, district libraries can provide better service to a larger number of people less expensively than the existing district library and a newly formed district library could do separately. Residents of communities seeking to join a district would gain immediate access to the library's services without having to spend the money and time involved in building their own library. Residents of the existing district benefit from the improved services that the library would be able to provide with an expanded tax base. If for some reason, voters in the existing district believed that a proposed change in the tax rate would result in an undue strain on the district, they would have the opportunity to make their case and vote against the proposed expansion.

The bill was originally introduced to address situations in which a district library considering expansion anticipates more tax revenue than it knows

what to do with. In its enrolled version, the bill significantly improves upon earlier drafts by allowing for the possibility that a district library may want to expand the district and to increase its tax rate despite the expanded revenue base. Voters would still need to approve such an increase, and presumably a district would have a more difficult time persuading residents that an expansion is worth a tax increase than it would persuading residents to accept a tax reduction. Still, by anticipating cases in which a tax increase may be necessary, the bill would create even more possibilities for existing district libraries and municipalities that wish to improve library services to their patrons and residents.

For:

The bill would allow certain county and local governments and voters to approve a merger of district libraries (e.g., the Genesee and Flint District Libraries) without obtaining the approval of the libraries' boards. For twenty years, some people have argued that a merger between the Genesee and Flint District Libraries is the only viable long-term solution to the challenge of financing a library system for the area. Negotiations between the two library boards recently broke down, and whether or not they can be dragged back to the table, some people believe that the issue has become so vexed that the boards' members are unlikely to approach one another "in good faith" any time soon. The bill would not impose a merger on the districts, but it would give local governments and voters the option to decide the issue for themselves—i.e., without the approval of the libraries' boards.

Against:

The District Library Establishment Act currently allows municipalities to enter, withdraw from, and change district library agreements, under certain circumstances. Currently, authorities may work out an agreement to effectively combine their operations of two or more district libraries', but such an agreement has to be approved by the libraries' boards. The bill would allow certain municipalities to circumvent their library boards—boards whose members were either appointed by local governments in the district or elected by residents of the district—to form a consolidated district library out of two or more existing district libraries. The message is clear: when district library boards support changes that local officials and residents want, let them participate in the process, but when the boards resist their communities' plans, exclude them from the process. Decisions about the futures of district libraries ought to be made by local governments, voters, and the

libraries' boards. If library board members consider a merger plan and negotiate in good faith but still cannot agree on what is best for the districts they serve, then perhaps the merger is not really in the interest of their districts. If, on the other hand, library board members refuse to listen to the needs and wishes of the communities they serve, then the municipalities can and likely will refuse to reappoint them or voters can and likely will refuse to reelect them. Allowing communities to simply exclude their library boards from major decisions involving the future of the libraries that they oversee would be a mistake.

Response:

Although there are ways to effectively combine the operations of district libraries under current law, the bill would create a new procedure by which certain district libraries could consolidate directly. If communities decide that consolidating their district libraries is in their best interests, then the library boards shouldn't have the power to thwart their efforts.

Reply:

If the legislature really believed that the bill represented a sound policy decision, then it would propose that all municipalities be given the opportunity to consolidate district libraries in this manner. The bill would only give this opportunity to those counties with a population of between 400,000 and 500,000 and to local governments within those counties—currently Genesee County and its cities, villages, and townships. Indeed, some people believe that by giving these communities permission to “take an end run” around their library boards, the legislature has sided in favor of the Genesee and Flint District Libraries' merger. After all, they argue, the current law was working just fine as long as it looked like consensus on a merger could be achieved within its framework. Changing the legal framework may be expedient, but it sets a dangerous precedent, opening the door for others who want the legislature to settle their local feuds.

Analyst: J. Caver

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