

ELECTRONIC OR DIGITAL REPRODUCTION OF CONSTRUCTION DOCUMENTS

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House Bills 5197 and 5198 as reported from committee

Sponsor: Rep. Matt Maddock

1st Committee: Local Government and Municipal Finance

2nd Committee: Ways and Means

Complete to 2-11-20

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Acts 283 and 284 of 2020)

BRIEF SUMMARY: House Bill 5197 would amend the Records Reproduction Act to allow municipalities to reproduce certain construction documents in electronic or digital file format, and dispose of the original documents, as long as certain conditions were met.

House Bill 5198 would amend the Michigan Penal Code to provide that disposal of official records be subject to the changes to the Records Reproduction Act proposed by HB 5197.

FISCAL IMPACT: The language of House Bill 5197 is permissive; therefore, the bill would have an unknown fiscal impact on local units of government. Any fiscal impact would depend on the difference in physical and digital storage costs and likely would be specific to the local unit of government. The cost of reproducing a physical copy of an electronically or digitally stored construction document presumably would be recouped by levying a reasonable fee.

There would be no discernible fiscal impact for the state or for local units of government resulting from House Bill 5198.

THE APPARENT PROBLEM:

According to committee testimony, current record retention laws have caused municipalities to dedicate whole storage rooms, basements, and even old semitrailers to the storage of documents such as blueprints. Reportedly, the blueprints for Huron Valley Hospital in Commerce Township occupy an entire 10-foot by 12-foot room. The bill proposes to allow municipalities to digitize those documents and dispose of the originals under certain circumstances.

THE CONTENT OF THE BILLS:

House Bill 5197 would amend the Records Reproduction Act to allow municipalities to reproduce certain *construction documents* in electronic or digital file format, and dispose of the original documents, as long as certain conditions were met.

Construction document would include the specifications, bid documents, instructions to bidders, contract, bonds, drawings, blueprints, permits, site plans, change work orders, or stop work orders for a construction project.

Specifically, a construction document presented to a building official or municipal department could be electronically or digitally reproduced if all of the following conditions were met:

- The electronic or digital file format captured the entire document.
- The accuracy of the document was confirmed by a building official of that municipality, the municipality's planning commission, or a signed affidavit from the person who created the document.
- The document was easily accessible and publicly available at the clerk's office and on the municipality's website.
- The document was also reproduced in a PDF or other widely used secure electronic file format.
- A physical copy of the document was available from the municipality's clerk for a reasonable fee.
- A redundant copy of the document was kept at a bonded third-party digital storage vendor.

If the document were reproduced as specified above, the original document could be disposed of or destroyed as authorized under statute, unless it involved a historic site, in which case the original document would have to be retained by the municipality.

MCL 401.402a

House Bill 5198 would amend the Michigan Penal Code to provide that disposal of official records be subject to the changes to the Records Reproduction Act proposed in HB 5197.

MCL 750.491

The bills are tie-barred together, meaning neither could take effect unless both were enacted.

ARGUMENTS:

For:

Proponents stressed that HB 5197 is permissive and would simply present an option whereby communities could reduce the amount of space needed for document storage and the attendant cost of that storage. As described in **The Apparent Problem**, above, the retention of construction documents means that whole buildings and other structures are filled with scores of blueprints. Reducing those requirements would free up the money spent on purchasing, renting, and maintaining storage spaces.

Moreover, the reliance on physical paper records has often kept municipalities from digitizing those records, meaning that if anything happens to the paper copies, those records are lost forever. Fires in some storage spaces, as well as poor storage practices and the inevitable aging of the paper documents, have all combined in largely rendering the practice of large-scale paper retention archaic. (Of note, documents related to historical sites are protected under the bill.)

Against:

No arguments opposing the bills were presented in committee testimony.

POSITIONS:

A representative of the Charter Township of Commerce testified in support of the bills.
(1-22-10)

The following entities indicated support for HB 5197:

Michigan Association of Counties (1-22-20)

Michigan Townships Association (2-11-20)

Canton Township (2-5-20)

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