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BILL ANALYSIS

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Senate Fiscal Agency

Lansing, Michigan 48909

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Mich. State Law Library

Senate Bill 132 (as passed by the Senate)**Senate Bill 196 (as passed by the Senate)****Sponsor: Senator Doug Cruce****Committee: Local Government and Veterans****Date Completed: 4-14-87****RATIONALE**

As the popularity of renting movies on video tapes has increased in the past few years, video rental dealers have opened businesses throughout the State to service the tape rental market. Many of these rental stores reportedly are operated as small, private businesses. In response to the growing demand for video tapes, libraries also have begun to rent tapes to their patrons. Some people contend that libraries are offering entertainment videos to their patrons, under the guise of instructional tapes, and are charging below the market price for rentals. The revenues then reportedly are used, in some cases, to add to the stock of entertainment tapes. The result is that potential customers for the private dealerships are renting entertainment videos from their local libraries at lower prices. Tax-supported public libraries, it is argued, are presenting unfair competition to the private rental businesses and should not be allowed to charge a rental fee for their video tapes.

CONTENT

Senate Bill 132 would amend Public Act 164 of 1877, which authorizes cities, incorporated villages, and townships to establish and maintain free public libraries, and Senate Bill 196 would amend Public Act 215, which provides for the incorporation of fourth class cities and the establishment and maintenance of public libraries in those cities, to provide that libraries established under these Acts could not charge a fee for the loan of a videocassette tape to a resident of the city, village, or township that established the library.

(Fourth class cities are defined in Public Act 215 of 1895 as cities incorporated under the Act that contain a population not exceeding 10,000, according to the last preceding federal or state census.)

MCL 397. 206 and 91.1 - 91.9

BACKGROUND

Senate Bills 132 and 196 would affect two types of libraries. There are approximately 20 kinds of libraries that can be formed under State law. Other types include: county libraries, school district libraries, a district library that incorporates more than one municipality, a regional library, a library established under an individual ordinance or special act of the Legislature, the library for the blind, and the library of Michigan, among others.

FISCAL IMPACT

The bills would have no fiscal impact on State government and an indeterminate impact on local governments. A library that chooses to circulate videocassettes would have to absorb purchase and circulation costs within its operating budget.

ARGUMENTS**Supporting Argument**

In some communities, private video rental stores are considered the second choice of video customers. According to the Video Software Dealers Association, which represents more than 250 video stores across the State, video shop owners report losing customers to libraries in their communities. They complain that libraries are circulating popular movies under the guise of educational films and are charging below the market price for rental. Small video rental shops can't compete. To allow libraries to continue this practice hurts the private rental stores that are part of the small business community, which is vital to Michigan's economy.

Supporting Argument

Public libraries are in direct and unfair competition with private video rental businesses. Libraries can reinvest every dollar of their video rental revenues into their video collections because they have no overhead and are supported by the taxpayers. Yet, video dealers must use their revenues to pay taxes, pay employees who pay taxes, and cover operating costs, as well as replenish their video stock. While libraries should circulate videos as part of serving the public, video rental for some libraries has become more of a business than a service.

Response: Prohibiting libraries from charging a fee for the loan of a videocassette tape could have the opposite effect than what is intended in the bill. Customers of video stores may be more inclined to patronize libraries, especially those that have a wide selection of videos, where they can borrow videos for free. The result could be that video dealers will lose even more customers.

Opposing Argument

Libraries circulate video tapes as part of their total audio-visual services. The printed word is the foundation of a library, and videos are another form of literature. Those libraries that loan videos to their patrons do so as a public service and not as a business.

Opposing Argument

Many libraries reportedly do not assess a fee for loaning a video tape. Those that do charge, however, often allocate the funds for the local matching support (amounting to three-tenths of a milli) that libraries must demonstrate in order to receive State aid. Revenues generated by video fees also fund a library's basic services. Although video fees can be reinvested in the video collection, few libraries have the size of collection that would rival a private rental dealer.

S.B. 132 & 196 (4-7-87)

Opposing Argument

The effect of the bills would be to censor libraries. Without the ability to charge for the loan of a video tape, libraries would not have the opportunity to generate revenues that could be used to enhance their video collections or fund other services. The result would be to limit the number and type of videos that libraries can acquire and circulate among their patrons.

Opposing Argument

While a primary purpose of today's libraries is to meet the educational, informational, and recreational demands of their local communities, libraries also serve as archives. Private video rental stores generally offer their customers the most popular and current videos. Libraries, on the other hand, will maintain videos in their collections that are no longer the "best sellers" for archival purposes. Restricting a source of revenues would hamper libraries in developing their video archives.

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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.