

METROPOLITAN DISTRICT ELECTIONS

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House Bill 4121 (Substitute H-1)

House Bill 4122 (Substitute H-1)

Sponsor: Rep. Richard Hammel

Committee: Redistricting and Elections

First Analysis (2-1-12)

BRIEF SUMMARY: The bills would provide for elections in metropolitan districts, and to ensure that those elections are governed by the provisions of state statute that generally govern elections for other local units of government.

FISCAL IMPACT: House Bills 4121 and 4122 would have an indeterminate fiscal impact on state and local government. See *Fiscal Information*.

THE APPARENT PROBLEM:

In 1929 the Michigan legislature enacted the Metropolitan District Act, enabling two or more local units of government--that is, cities, villages, or townships--to incorporate a metropolitan district in order to own and operate parks, or to establish public utilities that supply sewage disposal, drainage, water, or transportation services. The enabling statute that creates the districts allows their elected officials both to manage their own elections, and most do so in cooperation with county clerks, and to oversee the district's dissolution. However, metropolitan districts are not explicitly covered in the Michigan Election Law. See the link to the act in *Background Information*.

An early form of intergovernmental cooperation between townships and villages, there are now, according to committee testimony, seven metropolitan districts in Michigan, located in Genesee, Saginaw, Bay, and Ingham counties. (Local units of government can share services by using an array of 77 state statutes, according to the Citizens Research Council. The most commonly used among the options are the Intergovernmental Cooperation Act of 1967 and the Intergovernmental Transfers of Functions and Responsibilities Act of 1967. For more detail, see *Background Information*.)

The Beecher Metropolitan Water and Sewer District, serving two townships that are located in Genesee County, was organized as a metropolitan district in 1938. It serves about 4,500 homes, and a district board of five elected officials oversees its operation. In 2009, the *Flint Journal* investigated allegations of an inappropriate use of funds by district officials during travel to conventions, which had been reported to the county sheriff by the district's executive director, who had been fired. The water and sewer board officials faced criminal charges of embezzlement and larceny by conversion (for accepting inflated travel reimbursements for their expenses), but were acquitted at trial in the Genesee Circuit Court. (*Flint Journal* 9-9-09, 3-25-10 and 10-29-10)

Following the acquittal, the citizens of the Metropolitan Water and Sewer District petitioned to recall three of the district officials, gathering enough signatures to place a recall question on the ballot. However, the Genesee County Clerk could not accept the recall petitions and schedule an election, because metropolitan districts are not included under the Michigan Election Law.

Legislation has been introduced to bring all of the state's metropolitan districts under Michigan Election Law, and also to allow for the dissolution of metropolitan districts, if voters decide their services could be provided more efficiently by other units of local government.

THE CONTENT OF THE BILLS:

The bills would amend various acts to provide for elections in metropolitan districts, and to ensure that those elections are governed by the provisions of state statute that generally govern elections for other local units of government. The bills are tie-barred to each other, so that neither can go into effect unless both are enacted into law. A more detailed description of each bill follows.

House Bill 4121 (Substitute H-1)

The bill would amend the Michigan Election Law (MCL 168.24a et al) to create a new section entitled "Metropolitan District Elections" that would extend the statute's provisions concerning local government elections to metropolitan districts.

Since 1929, Michigan law has allowed two or more cities, villages, or townships (or any combination of these local units of government) to incorporate into a metropolitan district comprising territory within their respective limits, for the purpose of owning and operating (either inside or outside their boundaries) parks or public utilities to supply sewage disposal, drainage, water, or transportation services (or any combination of these services). Each organized district is then recognized as a body corporate under the law.

The Michigan Election Law provides the framework under which local elections clerks (working in conjunction with the Bureau of Elections in the Department of State and the Secretary of State) conduct elections. Within that framework, House Bill 4121(H-1) specifies (among other things) how local metropolitan district election coordinators would either themselves, or by delegating their authority to a local city or township clerk, conduct regular elections, receive nominating petitions, procure the qualified voter file precinct lists, certify candidates, receive ballot proposal language, issue absent voter ballots, and prepare both polling places and the official ballot.

Under the bill, before entering upon the duties of office, an individual elected as an officer to the legislative body of a metropolitan district would be required to take the oath of office, as provided in Section 1 of Article XI of the State Constitution.

The bill also specifies how vacancies in office would be filled. If less than a majority of the offices of a district became vacant, then the remaining officers would fill each vacancy by appointment. If a vacancy was not filled within 30 days, or a majority of the

offices became vacant, then the county election commission of the county in which the largest number of registered electors of the metropolitan district resided would fill each vacancy by appointment.

In addition, the bill specifies that the legislative body of a metropolitan district could submit a ballot question to the district electors on a regular election date. The legislative body would have to file the ballot question with the metropolitan election coordinator, as provided in Section 646a(2) of the act.

Under the bill, the metropolitan district would pay each county, city, and township involved in the election for all of the costs attributable to the district's election when the election was held in conjunction with other units of government, and if only the metropolitan district election appeared on the ballot, then the district would pay all of the costs of that election. House Bill 4121 (H-1) describes in some detail the protocol (including a timeline) that would be followed, in order to ascertain and verify the account of the actual costs of conducting the election. Assistance in this process would be available from the Secretary of State, and if no agreement between the parties could be reached, then the Secretary of State would unilaterally determine the actual costs.

Currently the Michigan Election Law specifies the information about each voter that must appear in the Qualified Voter File, such as name, residence, driver's license number, jurisdictional information, precinct and ward numbers, and voting history for a five-year period. House Bill 4121(H-1) would retain these provisions, and also require that the file contain in the jurisdictional information, the voter's metropolitan district, if any.

The Michigan Election Law also specifies in some detail how candidates for local office must proceed when filing their nominating petitions, filing fees, and affidavits of candidacy for a federal, county, state, city, township, village, or school district office. House Bill 4121 (H-1) would retain these provisions and extend them to candidates seeking metropolitan district offices.

Now under the law, the order that nonpartisan positions appear on the local ballot is specified, as follows: president, clerk, treasurer, and trustees, and in a year in which an election for the office is held, local school district board member, community college board of trustees member, intermediate school district board member, and district library board member. House Bill 4121 would retain this provision, but modify it to add metropolitan district officer before district library board member.

The bill also allows a metropolitan district to petition for a recount of votes cast in any precincts within the district's boundaries.

The bill also specifies that a petition demanding the recall of an elected metropolitan district officer be filed with the county clerk of the county in which the largest portion of the registered voters in the electoral district reside. Further, the bill would extend the notice of recall provision that is in the law to the legislative body of the metropolitan district from which the official was recalled.

House Bill 4122 (Substitute H-1)

The bill would amend Public Act 312 of 1929, known as the Metropolitan District Act (MCL 119.3 et al), to revise its provisions concerning elections, bringing them into conformity with the Michigan Election Law, and to provide for dissolution of a metropolitan district, if approved by the district's voters.

The bill specifies that notwithstanding any law or charter provision to the contrary, beginning on the effective date of House Bill 4122 (H-1), all elections in a metropolitan district would be administered and conducted under the provisions of the Michigan Election Law. Further, all elections in the metropolitan district would be held on a regular election date, as established under Section 641 of the Michigan Election Law.

Currently the Metropolitan District enabling act specifies that an incorporated district may (but need not) provide in its charter for (among other things) assessments, sinking funds, taxation, purchases, gifts, initiative and referendum to amend the charter, and for the recall of all its officials. House Bill 4122 would eliminate "the recall of all its officials" from this list of possible charter provisions. Likewise, the bill would eliminate the need for the metropolitan district to provide for polling places, election inspectors, and a canvassing board. With regard to amending the charter by initiative and referendum, the bill would establish time frames within which the proposed amendment must be submitted to the voters. Further, the bill specifies that if a petition conforms to the act's provisions, then the legislative body of the metropolitan district must submit the ballot question to the electors as provided in Section 389 of the Michigan Election Law.

Finally, the bill specifies that the dissolution of a metropolitan district could be initiated by a petition signed by not less than five percent of the registered electors residing in the district. The petition would be filed with the county clerk of the county in which the largest number of registered electors resided. The bill specifies the format of the ballot question that would be submitted to the voters, and that the question would be submitted to them at the next regular election held in the district, not less than 84 days after the filing of the petition. If a majority of the electors approved of the dissolution, then the district would be dissolved within two years after the election.

Under the bill, once the voters approved the dissolution the legislative body of the district would be immediately dissolved, and the powers and duties of that body, as well as all of its assets and liabilities, would be transferred to a five-member board of trustees.

The bill specifies that within 30 days after an election approving dissolution of a metropolitan district, the county clerk, the prosecuting attorney, and the presiding or senior judge of probate of the county in which the largest number of registered electors resided, would be required to appoint a five-member board of trustees composed of the following members, who would dissolve the district: a) two members who are elected county officers from the county having the largest number of registered electors; b) two members who are elected city, township, or village officers within the district; and c) one member who is a citizen residing in the metropolitan district. Within two-years after the election approving the dissolution, the five-member board of trustees would be required to do all of the following: (1) prepare the financial report (providing a copy of it to the

legislative body of each city, township, and village in the district); (2) prepare a plan for the disposition of the assets and liabilities; (3) deposit all records of the district with the county clerk; and (4) notify the governor, in writing, of the dissolution.

BACKGROUND INFORMATION:

To review the Metropolitan District Act in its entirety, visit:

<http://www.michigantrails.org/blog/wp-content/uploads/the-metropolitan-district-act1.pdf>

To review the statutes under which Michigan communities form cooperative quasi-governmental agencies to deliver services to citizens, visit these links to reports from the Michigan Citizens Research Council (CRC), and the Southeastern Michigan Council of Governments (SEMCOG):

<http://crcmich.org/PUBLICAT/2000s/2008/rpt354.html>

<http://library.semco.org/InmagicGenie/DocumentFolder/LegalTools.pdf>

FISCAL INFORMATION:

House Bills 4121 and 4122 would have an indeterminate fiscal impact on state and local government. Collectively the bills would prescribe uniform election procedures for metropolitan districts. Metropolitan district elections are not currently governed by Michigan election law. The fiscal impact on local units of government would depend on the extent to which the provisions of the bills move metropolitan district elections in line with normally held elections. Metropolitan districts could realize cost savings to the extent that they are combining their elections with normally scheduled elections under the election code as opposed to carrying out their own elections. Metropolitan districts would be required to cover the district's share of the cost of the election.

While the bill would allow metropolitan districts to be governed by the Michigan Election Law, the Secretary of State indicated that they would realize no fiscal impact.

ARGUMENTS:

For:

This legislation is needed to bring Michigan's seven metropolitan districts under the Michigan Election Law. Under the Michigan constitution, any elected official can be recalled; however, the Metropolitan District Act adopted in 1929 allows--but does not require--metropolitan districts to adopt recall provisions in their charters. Further, the metropolitan district enabling act allows the districts to schedule all of their own elections, including recall elections when their charters allow them.

In 2009, in Genesee County, some of the elected officials of the Beecher Metropolitan Water and Sewer District were subject to recall for alleged misuse of travel funds. Citizens circulated petitions following the same protocols now used for recalling state legislators and county officials. However, the Genesee County Clerk could not accept

the recall petitions because state law does not explicitly provide for a recall process in metropolitan districts. House Bill 4121 would extend the provisions of Michigan's Election Law, including its recall provisions, to all Metropolitan Districts in Michigan.

In addition, while the Metropolitan District Act now provides for the dissolution of a metropolitan district if it has outlived its usefulness, the decision to disband is left to the district's elected board members. Instead, to ensure greater accountability in district operations, House Bill 4122 would amend the act to create an orderly dissolution process, which could be initiated by and voted upon by the district's voters.

POSITIONS:

The Secretary of State supports the bills. (1-31-12)

The Michigan Association of Counties supports the bills. (1-31-12)

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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.