Ohio Legislative Service Commission

Bill Analysis

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Am. S.B. 321

129th General Assembly
(As Passed by the Senate)

Sens. Beagle, Patton, LaRose, Seitz, Bacon, Balderson, Burke, Coley, Eklund, Faber, Hite, Hughes, Jones, Kearney, Lehner, Manning, Niehaus, Sawyer, Schiavoni, Tavares, Wagoner

BILL SUMMARY

- Authorizes the State Library Board to define the territories of association libraries to prevent or eliminate overlapping property taxes levied to fund library systems, but only upon request of an association library.

- Prospectively permits a subdivision to levy a tax for an association library only if the association library has had its territory defined by the State Library Board and the subdivision's and association library's territory overlaps to some degree.

- Requires property tax levy questions proposing to fund any kind of public library system, including association libraries, to be submitted to the voters of the territory of the library system to the extent that the territory differs from the subdivision's territory, and permits the tax to apply only in the library system's territory.

- Permits a county budget commission to waive the filing of a tax budget or other information by a library board to the subdivision funding it even if more than one library system in the county is entitled to receive distributions from the County Public Library Fund.

- Changes the authority of the State Library Board to adjust boundaries of library districts by allowing it to do so on its own initiative and in accordance with the Administrative Procedure Act.

- Allows private corporations and library associations (in addition to the current authority for boards of library trustees to seek boundary changes) to apply for boundary changes of a library district for the private corporation or library association for the sole purpose of preventing or eliminating areas of overlap with other library districts that levy a tax for library purposes.

- Terminates (January 1, 2014) the ability for certain library boards to seek approval from the State Library Board to provide services through branches, library stations, or traveling library service and provides that the State Library Board cannot approve such requests after January 1, 2015.

- Increases the number of board members from six to seven for the board of library trustees of county free public libraries, municipal free public libraries, and library districts created by resolution of a legislative authority and removes the current requirements for half of the existing six members to be from different political parties.

- Provides that the seventh member's term for a county free public library must be set by the court of common pleas, not to exceed six years.

- Removes the mayor as the appointing authority for board members of a municipal free public library and replaces it with the legislative authority of the municipal corporation; allows terms of members to be set by the legislative authority, not to exceed four years.

- Allows, until January 1, 2014, a board of education of a school district that does not have a free public library to receive a bequest, gift, or endowment of a building, money, or property from an incorporated or unincorporated library association whose main library is located in the school district and that receives funding from the county public library fund and has had a library district defined for it by the State Library Board; the gift, bequest, or endowment must be used to construct a building for, or to furnish, equip, or operate, a school district free public library.

- Authorizes such board of education, until January 1, 2014, to accept by resolution the bequest, gift, or endowment and agree to establish, provide, and maintain a school district free public library on behalf of the school district; provides that library associations making such gifts, bequests, or donations will no longer receive funding from the county public library fund or any funds appropriated or taxes levied under R.C. 3375.42.

- Provides that the library district for a newly established school district free public library will be the library district previously established by the State Library Board for the library association.

- Changes the requirement for certain board of library trustees to meet in January to a requirement that they meet not later than January of each year with authority to meet in December of the preceding year; designates that terms of office of such

board members and fiscal officer commence on the first day of January or a later date selected by the board of library trustees.

- Changes the current requirement for library boards to set aside any unencumbered surplus remaining in the library's general fund, at the end of any fiscal year, for any purpose by removing the requirement for a two-thirds vote of the full membership in order to do so and by adding similar authority to set aside unencumbered surplus remaining in any fund, not just the general fund, unless doing so would be contrary to law.

- Increases the competitive bidding threshold for a board of library trustees from $25,000 to $50,000.

- Declares an emergency.

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CONTENT AND OPERATION

Background

Ohio law authorizes the formation of several different types of public libraries and library districts and places their control and management in appointed boards of library trustees. The following table provides information on the types of Ohio public libraries authorized in current law.

Type of Library	Statutory Authority	Library Territory	Taxing Authority
School district public library	R.C. 3375.14 to 3375.18	School district in which the library is located	Board of education of the city, local, or exempted village school district

Type of Library	Statutory Authority	Library Territory	Taxing Authority
Municipal public library	R.C. 3375.12 to 3375.13	Municipal corporation in which the library is located	Council or other legislative authority of the municipal corporation
County district public library	R.C. 3375.19 to 3375.24	Any school district in the county not already part of an existing township, school district, municipal, county district, or county free public library	Board of county commissioners
County public library	R.C. 3375.06 to 3375.08	County in which the library is located	Board of county commissioners
County extension public library	None	A library district may receive permission to extend its services to other areas of the county that are not within an existing library district	Taxing authority of the public library that has extended its services to additional areas of the county
Township public library	R.C. 3375.09 to 3375.11	Township in which the library is located	Board of township trustees
Regional library district public library	R.C. 3375.28 to 3375.31	Two or more contiguous counties	Board of county commissioners
Association public library (Established through adoption of articles of incorporation, rather than specifically authorized in statute)	R.C. 1713.28 provides the authority to adopt articles of incorporation	Territory set through articles of incorporation	Not set in the Revised Code, but may be stated in articles of incorporation

Information from the State Library's web site notes that although a regional library district is allowed under the law, no regional library district has been created.

The bill, generally

The bill makes numerous changes to the Library Law. A primary objective of the bill is to simplify the ability to change library district boundaries and to authorize the State Library Board to define, amend, and adjust boundaries of a library district for a private corporation or library association solely for the purpose of preventing or

eliminating areas of overlap with other library districts that have levied a tax for library purposes. The bill allows for the creation of association library districts for private corporations or library associations that maintain a free public library, and allows for a levy to support a library association or private corporation that has an association library district with boundaries that are not identical to those of a subdivision.

The bill provides for the conversion of various types of library districts to school district library districts and provides for changes in several governance provisions of the Library Law.

Library district boundary changes

The bill authorizes the State Library Board, upon application of one or more boards of library trustees, or upon its own initiative and in accordance with the Administrative Procedure Act, to define, amend, and adjust the boundaries of overlapping library districts to eliminate areas of overlap. Similarly, the bill authorizes the State Library Board, upon application of any private corporation or library association maintaining a free public library before September 4, 1947, and in accordance with the Administrative Procedure Act, to define, amend, and adjust the boundaries of a library district for the private corporation or library association for the sole purpose of preventing or eliminating areas of overlap with other library districts in relation to tax levies for library purposes that are or may be levied in support of the private corporation or library association.[1]

The State Library Board is required, on or before December 31, 2014, to review the boundaries of all public library districts within the state and, in accordance with the Administrative Procedure Act, to amend, define, and adjust the boundaries as necessary to eliminate areas of overlap.[2]

Conversion of association libraries to school district free public library

After the effective date of the bill but before January 1, 2014, the bill authorizes the board of education of any school district in which a free public library has not previously been established to receive a bequest, gift, or endowment of a building, money, or property, or any combination thereof, from an incorporated or unincorporated library association whose main library is located within the school district, that was organized and operating before January 1, 1968, that participates in the distribution of the proceeds of the county public library fund, and that has had a library district defined for it by the State Library Board. The bequest, gift, or endowment must

[1] R.C. 3375.01.

[2] Section 3.

be used to construct a building for, or to furnish, equip, or operate, a school district free public library.

At any time after the effective date of the bill but before January 1, 2014, the board of education, by resolution, may accept the bequest, gift, or endowment and agree on behalf of the school district to establish, provide, and maintain a school district free public library. The donor library association cannot thereafter receive proceeds from the county public library fund or from any funds appropriated or taxes levied for library purposes. The newly established school district free public library "shall be the library district previously established by the state library board for the library association." Presumably, this means that the library association district ceases to exist and the school district free public library replaces it to serve the same territory as did the library association district.[3]

Property tax levies for libraries

The bill specifically authorizes the State Library Board to define or alter the territory of association libraries solely to prevent or eliminate overlap with the territory of other library systems so that property tax levies supporting an association library and another library system are not imposed over the same area.[4] The definition or alteration of an association library's territory must be made only at the request of an association library.

The bill also specifies that a property tax levy imposed by a subdivision – i.e., a county, township, school district, or municipal corporation – on behalf of and at the request of a library system having different boundaries than the subdivision must be submitted to the voters in the library system's territory instead of in the subdivision's territory, and that the tax applies only in the library system's territory.

The bill's changes to the property tax levy law apply to tax year 2013 and thereafter.[5]

General background – tax funding for libraries

Most public library systems in Ohio are funded primarily by state general tax revenue distributed through the Public Library Fund (PLF) and by local property taxes, although a fair proportion of public library systems do not receive any local property tax funding. None of the library systems have independent power to levy taxes. Their

[3] R.C. 3375.151.

[4] R.C. 3375.01(I).

[5] Section 5 of the bill.

source of local tax funding is the taxing authority of a subdivision – either a school district, county, municipal corporation, or township. The taxing authority of such a subdivision may levy a tax on its own initiative, either as an allocation of part of its "inside" unvoted millage[6] or as voter-approved millage,[7] or the library board may request that the taxing authority levy a tax on the library system's behalf.[8] A subdivision's tax funding may also be provided under a contract with a library system – including an association library – in exchange for library services being made available to the subdivision's residents.[9] The subdivision and the contracting library system do not have to share territory.

Property tax for association libraries

The bill specifies that subdivisions' authority to fund association libraries with a property tax may continue, after 2012, only if the association library has its boundaries defined by the State Library Board and only if the subdivision and the association library share common territory. The bill further specifies that if the territory of an association library differs from the subdivision's territory, any property tax question placed before voters must be submitted to the voters in the association library's territory, and the tax shall apply throughout the association library's territory instead of the subdivision's territory.[10] For this purpose, the bill defines "association library district" as the territory fixed by the State Library Board.

Differing subdivision and library district territories

The bill defines "qualifying library levy" to distinguish (1) a property tax levy imposed by a subdivision for a library system that has the same territory as the subdivision from (2) a levy imposed by a subdivision for a library system whose territory differs from the subdivision's.[11] The ballot question for a qualifying library levy imposed on behalf of a library system at the library board's request under R.C. 5705.23 must be submitted to the voters of the library district, and the levy, if approved, applies in the territory of the library system instead of the territory of the subdivision.

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[6] R.C. 3375.07, 3375.09, 3375.17, 3375.23, and 3375.31.

[7] R.C. 3375.42, 3375.43, and 5705.19(D).

[8] R.C. 5705.23. Association libraries are not authorized to request that a subdivision levy a tax on its behalf under this section.

[9] R.C. 3375.42.

[10] R.C. 3375.42(B), 5705.01(L), (M), and (N), 5705.191, 5705.21, 5705.25, and 5705.26.

[11] R.C. 5705.01(M) and (N), 5705.23, 5705.25, and 5705.26.

Under current law, a tax levy by a subdivision on behalf of and at the request of a library board may be submitted only to voters of the library district if the resolution proposing the tax so provides, but in most cases current law does not require the tax question to be submitted only to the voters of the library district; current law appears to permit the question to be submitted to the voters of either the library district or the subdivision. An exception currently is made for county district libraries created under R.C. 3375.19, which are created to serve the part of a county that is not already included in another subdivision's library district. Currently, if the library board of a county district library requests the board of county commissioners to submit a tax levy question to voters on its behalf, the question must be placed before voters within the territory of the library district instead of the entire county, and the tax applies only in that part of the county.[12] This ensures that a county district library's tax does not apply in parts of the county where another library system's tax already applies.

Tax budget waiver

The bill eliminates a condition that must be satisfied in order for a county budget commission to waive certain requirements whereby library systems demonstrate to the commission the system's relative need for distributions from the County Public Library Fund. Under current law, a budget commission may waive the submission of certain budget information if all the money received into the County PLF from the state PLF is paid to only one library system or if only one library system receives all the money from the fund that is allocated for library systems.[13] The information submissions that may be waived are (1) tax budgets that a school district public library board otherwise must file with the school board, and (2) statements of receipts and expenditures that other public library boards otherwise must submit to the taxing authority that funds the library board.

Under the bill, those submissions may be waived by a budget commission regardless of whether all the money received into the County PLF is paid to only one library system or whether only one library system receives all the money from the fund that is payable to library systems in the county.

Conforming amendments

The bill amends several sections of the property tax levy law to conform the language of that law to reflect the distinction between taxes levied in the territory of a

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[12] R.C. 5705.23, last paragraph.

[13] R.C. 5705.281. The rationale for this condition presumably is that the budget information is used solely or chiefly to apportion the County PLF among multiple recipients, and the absence of multiple recipients precludes apportionment on the basis of a comparison of tax budgets.

subdivision from the territory of a library system where the subdivision's taxing authority levies a tax to fund the library system. The amended sections govern voter-initiated reductions in tax rates of continuing levies, the county budget commission's estimate of tax rates, taxpayer appeals of necessary tax rates as estimated by the county budget commission, and the extension of tax levies upon the tax lists and the computation of a subdivision's taxable property valuation for the purpose of determining maximum permissible indebtedness.[14]

Library governance provisions

The bill makes a number of changes to the governance provisions of current Library Law. Effective January 1, 2013, the bill increases the number of board members from six to seven for the board of library trustees of county free public libraries[15] and municipal free public libraries,[16] and removes the current requirements for no more than half the members to be from the same political party.

The bill specifies that the seventh member's term for a county free public library must be set by the court of common pleas, not to exceed six years.[17] The initial term of the seventh trustee for a municipal free public library must be set by the legislative authority, not to exceed four years. The bill removes the mayor as the appointing authority for trustees of a municipal free public library and replaces it with the legislative authority.[18] Terms of office of members of boards of library trustees appointed before January 1, 2013, are not affected by the changes to terms of office.

The bill changes the current requirement for boards of library trustees to meet in January; instead, it requires that they meet not later than January of each year with authority to meet in December of the preceding year. The bill designates that terms of office of the officers and fiscal officer commence on the first day of January or a later date selected by the board of library trustees.[19]

The bill terminates, on January 1, 2014, the authority for library boards to seek approval from the State Library Board to provide services through branches, library stations, or traveling library service. The State Library Board is prohibited from

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[14] R.C. 5705.26, 5705.261, 5705.34, 5705.341, and 5705.49.

[15] R.C. 3375.06.

[16] R.C. 3375.12 and 3375.121.

[17] R.C. 3375.06.

[18] R.C. 3375.12 and 3375.121.

[19] R.C. 3375.32.

approving such requests after January 1, 2015, and the bill voids any approvals made before January 1, 2015.[20]

The bill changes the current requirement of a two-thirds vote for a library board to set aside any unencumbered surplus remaining in the library's general fund at the end of any fiscal year for any purpose. The bill adds similar authority to set aside unencumbered surplus remaining in any fund, not just the general fund, unless doing so would be contrary to law.[21]

The bill increases the competitive bidding threshold for a board of library trustees from $25,000 to $50,000.[22]

HISTORY

ACTION	DATE
Introduced	04-03-12
Reported, S. State & Local Gov't & Veterans Affairs	05-10-12
Passed Senate (33-0)	05-15-12

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[20] R.C. 3375.05 and 3375.40.

[21] R.C. 3375.40.

[22] R.C. 3375.41.