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Draft only!

Public Library District Enabling Legislation for Wisconsin

*A Report by the Wisconsin Library Association's Library Development and Legislation Committee
September 2004*

Introduction

The Wisconsin Library Association's Library Development and Legislation Committee (LD&L) are seeking WLA member input on proposed district legislation. Consequently some of the elements of proposed district legislation may change from what is presented here. Nevertheless, it is a good summary of current intentions for legislation.

Because of the rapid changes in population and taxing patterns, the committee recommends support of Library District legislation that we hope will be introduced in the January 2005 session of the Wisconsin Legislature. The legislation will provide for an elected board in a designated district with taxing authority based on referendum.

Representative Kestell from the Sheboygan area had a bill drafted by the Legislative Reference Bureau, but it was not introduced in the last session. The state has funded grants to 6 areas of the state (Sheboygan, Ozaukee, Racine and Rock Counties; as well as Greenfield-Greendale and Menomonee area) to do planning for district library alternatives.

We hope to see legislation introduced early in the next session. For the LRB draft, see:
<http://www.wla.lib.wi.us/legis/DistrictLeg.pdf>

Note that the LD&L committee sees major flaws in the LRB draft noted above and wishes to see the legislation contain the language and concepts included in this report rather than the specific language in the LRB Draft. Various SRLAAW and WLA Members reviewed legislation in other states for best practices regarding library districts. That review included legislation in California, Illinois, Idaho, Michigan, New York, Colorado, Arizona, and Texas.

We have been working on recommendations on district legislation for a long time. A subcommittee chaired by Racine Public Library Director Jessica MacPhail has also adopted recommendations based substantially on recommendations in the "Preliminary Report of A Study of the Feasibility of Public Library Districts In Rock County, Wisconsin."

Please communicate your comments or concerns regarding these proposals to:

- Thomas J. Hennen Jr., LD&L Chair at: thennen@wcfls.lib.wi.us
- Jessica McPhail, District Subcommittee Chair at: macphail@racinelib.lib.wi.us
- Lisa Strand WLA Executive Director at: strand@scls.lib.wi.us

WLA's LD&L wants district library legislation to have the following characteristics:

1. Overview

- a. An elected 9-member board will have taxing authority for library services in the district.
- b. The district may be formed only along current municipal or county lines but may be formed by either petition of the electorate or vote of the governing bodies of the municipalities or county concerned.
- c. The boundaries of the municipalities included must be contiguous.
- d. At least one of the libraries forming the district must be at least five years old.
- e. The district must contain at least 4,000 residents.

2. District Prerequisites

- a. A proposed district would need a minimum population of 4,000.
- b. A proposed district would need to include a public library that had been established for at least 5 years.
- c. The Department of Public Instruction would be required to review the plan and issue a written opinion concerning the viability of the plan and whether it meets statutory requirement. The review would be advisory only.
- d. A petition referendum (as opposed to municipal board action only) should be allowed both for the formation of a district and for the increase of the maximum mill rate allowed.
- e. A public library district could include one or more contiguous municipalities.
- f. A public library district could include one or more contiguous counties.
- g. Protections for existing employees will be included in the legislation. No person employed by a participating public library, county library service or public library system, at the time of the establishment of a public library district shall lose, because of such establishment, any salary, fringe benefit or other employment rights in existence at that time.
- h. Retirement benefits need to be protected. If any employee of a participating employer under the Wisconsin retirement system becomes, by virtue of the establishment of a public library district, an employee of that library district, the library district shall become a participating employer under the Wisconsin retirement plan.

3. Planning Committee

- a. The first step in the creation of a public library district will be the establishment of a planning committee.
- b. The planning committee may be created by an affirmative vote of each participating municipality or county. A petition of at least 10% of the electors in each participating municipality or county can also create it in the most recent gubernatorial election.
- c. The planning committee may consist of 7 to 11 members appointed by the governing boards of the participating municipalities or counties.
- d. The district library planning committee will develop a plan for establishment and initial operation of the proposed district public library.

4. Funding

- a. The plan would include the initial property tax levy rate for the public library district. This rate will, at minimum, equal the three year average of previous library support provided by the proposed participant(s) to the public library district.
- b. Upon creation of the public library district, all assets and liabilities of each public library that becomes part of the district become assets and liabilities of the district.
- c. An increase in the public library district property tax levy rate would require approval by referendum.
- d. The legislation will allow for anticipation tax loans to use anticipated district taxes to cover known and planned start up costs for initiating a district. (Such as a transition to independent auditing, and personnel administration, and so on).
- e. The proposed legislation should include a provision that permits up to a five-year phase in of a district-wide tax rate, provided a specific schedule for the phase in of the tax rate for each political jurisdiction in the public library district is included in the initial district plan. This would be helpful in equalizing tax rates in areas where they are widely divergent. (Note that this may not be possible under Wisconsin law because of the "tax uniformity" provisions of the State Constitution).

5. Governance

- a. A 9-member board elected by residents of the district area for staggered 3-year terms would govern district libraries. The plan would state whether board members would be elected at-large or by geographic sub-districts.
- b. The district board should be required to have an annual public hearing on the budget proposed by the district board.

6. Plan Requirements

- a. The plan will provide for the method of transition from a current public library organization to a public library district.
- b. The plan will include a procedure for transferring employees and title to property and would address other necessary matters.
- c. The plan will specify the salaries, fringe benefits, and other employment benefits for each position in the proposed district.

7. Buildings

- a. If a public library district is established, an existing public library facility cannot be closed by the public library district board for a minimum of five years from the date of the establishment of the public library district unless
 - a new public library facility is opened to serve the same area formerly served by the facility which is closed, or
 - the closing of the facility is specified in the initial plan for the district.
- b. A public library district board shall provide a municipality in which a public library facility is located two years notice of its intent to close the public library facility unless a new public library facility is to be opened in the same municipality.
- c. If a public library is currently located in a municipal building which is shared with other municipal functions, ownership of the building shall remain with the municipality. However, the municipality shall be required to lease the current space occupied by the public library to the new district public library for \$1 per year for a minimum of 10 years.

8. Plan Approval

- a. If the final plan for creation of a public library district is approved by all of the governing bodies of all of the proposed participants to the public library district, the district would be created.
- b. If the plan is not approved by the governing bodies of all of the proposed participants to the public library district, the district could still be created by referendum in each municipality.

9. Single Municipal or Joint Library District Formation Options

- a. If a single municipality, existing joint library, or consolidated county library board wants to establish a district, the existing public library board may serve as the planning committee.
- b. In a conversion process, the district library plan would be approved by a referendum of voters in the political jurisdictions currently served by the municipal, county, or joint public library as a whole.
- c. Individual jurisdictions currently included in joint libraries or consolidated county libraries will not be able to opt out of the proposed district library.

10. Multiple Library Community and/or Non-library Community Options

- a. For a single municipal public library that has been established for a minimum of five years, the existing public library board will be able to establish a planning committee to develop a plan for establishing a district public library that would include the area served by the municipal library and one or more adjacent municipalities that do not have a public library. The planning committee must include representatives from the adjacent municipalities without public libraries.
- b. For two or more municipal or consolidated county public libraries that have been established for a minimum of five years and wish to form a district, the existing public library boards will be able to jointly establish a planning committee. The committee may develop a plan for establishing a district public library that includes the area served by the two or more municipal public libraries and one or more adjacent municipalities that do not have a public library if the planning committee includes representatives from the adjacent municipalities without public libraries.

11. Countywide District Option

- a. A planning committee for a county-wide public library district for a county in which a county-wide public library does not currently exist may be established by a majority vote of a county board of supervisors or by a written petition that is signed by 10% of the electors.
- b. The planning committee for a county-wide public library district shall include at least one representative from each public library board that currently exists in the county.
- c. The legislation will provide that a county board may only create a countywide library district with the consent of EACH municipality with an existing library acting individually rather than by a plurality in a countywide referendum.
- d. Municipalities without their own libraries would be considered as a single entity for purposes of referendum in a countywide referendum.
- e. A public library district that includes 100% of the territory in a county may organized as a single county consolidated public library system under s. 43.24 (4) (a) and s. 43.21 of the Wisconsin Statutes. This would mean that a county district library board could be the system board under state law and receive state aid rather than having a separate system board.

12. Mergers, Withdrawals

- a. A municipality contiguous to an established public library district could join the district by affirmative vote of the public library district board and the governing body of the municipality, or by referendum in the existing district and in the contiguous municipality
- b. A municipality could withdraw from the public library district by referendum.
- c. The legislation will provide an orderly method for the merger of two or more districts into a single district. Such a merger can be by action of the respective district boards rather than via municipality-by-municipality referendum.
- d. If a municipality withdraws from the district, all assets and liabilities attributable to public library service within that municipality become assets and liabilities of the municipality.

13. Statutory Authority of Districts

- a. The legislation will give public library district boards the powers and authority delineated in Chapter 43 for municipal libraries. However, it is important that districts, like systems but unlike municipal libraries, have the power to sue and be sued.
- b. Legislation will permit district libraries that extend beyond county boundaries. The language needs to be consistent with current language in Wis. Stats. 43.53 addressing joint libraries.

Some Expected Steps in Establishing a District Public Library

1. A library planning committee representative of all municipalities involved formulates a plan which addresses the following:
 - a) The names of the municipalities that will be members of the joint public library.
 - b) The statutory authority under which the district library will be established.
 - c) The method of election for library board members, whether by at large or by geographic district.
 - d) The initial terms of office, which will be assigned to each board member seat, providing for staggered three-year terms.
 - e) The disposition of existing and future assets of the district in case of dissolution.
 - f) The method by which annual budgets will be formulated, provision for annual hearings, and an initial operating and capital mill rate. (Changes in future maximum mill rates must be by referendum).
 - g) If the proposed district territory lies in 2 or more counties that are not in the same system, the agreement must designate the system in which the district will participate.
2. Submit proposed plan to the governing bodies of each participating municipality for approval. Alternately, submit the proposed plan to referendum based on a petition of 10% of voters in the affected municipalities.
3. Submit proposed plan to the Division for Libraries, Technology, and Community Learning for an opinion regarding the desirability and feasibility of the plan. The Division's opinion will be contingent upon the following conditions:
 - a) The district will be established under the appropriate provisions of Chapter 43 of the Wisconsin Statutes.

- b) A librarian who is eligible for the appropriate grade level of Wisconsin public librarian certification from the Department of Public Instruction will be appointed to administer the library.
 - c) The establishment of the district agrees with the long-range plan for library service in the county.
 - d) The joint library will be a member of a public library system.
4. Draw up legal referendum incorporating provisions of plan.

Outline of a Sample Plan

Name of Proposed District	
Current budget of library	
Proposed first year budget of library [List participant amounts individually]	
Names of proposed participant municipalities	
Statutory authority for district	
System of which the district will be a member	
Grade level certification of director	
Required grade level certification for newly formed district.	
Method for election of trustees (at large or by geographic sub-district).	

1. **Executive Summary**
2. **Mission Statement.**
3. **Committee Membership** [list members of the planning committee that developed this document]
4. **Brief History Of Library Development.** [Provide a history of the library that is the basis of the proposed district library]
5. **Current Library Services.** [list current circulation, attendance, collection and other input and output data for the current library operation]
6. **Current Funding and Proposed Future Funding** [provide a summary of past funding for the library and anticipated future funding; noting any proposed new buildings]
7. **Provide Impact statement** [Indicate the impact that the proposed merger is projected to have on funding and usage patterns in the county and/ or the system. Include letters or reports from the system and the county on feasibility.]
 - a. Relations With Other Libraries.
 - b. Funding formulas
 - c. Library System Opinion on Feasibility
 - d. County Opinion on Feasibility
8. **Tax Base of All Municipalities** [Provide a current summary of the tax base (State Equalized Valuations) for the participants in the proposed district over the last several years]
9. **Standards For Libraries** [Provide a listing of how the current and projected district library compare to the numerical requirements for state and county library standards]
 - e. State
 - f. County (if any)

10. **Buildings.** [Describe the building in which the district library will be housed. Include relevant data regarding square feet, collection capacity, parking, and so forth. Also indicate how the physical assets will be distributed in the event of dissolution]
11. **Contracts, Bylaws, etc.** [Attach copies of proposed bylaws and contracts. Indicate whether they have been reviewed by the relevant municipalities, county board and the library division]

Library District Pros

Larry Nix in a presentation for the Arrowhead Library System identified a number of pros and cons for public library districts.

Even though only 20 states provide for district library organization there is evidence that this type of organization results in substantially better service and increased accountability to the public in those states. It is unlikely that there will be a mass conversion to districts if district law outlined in this report is passed. Some of the positive things that could develop from public library districts are:

1. Economies of scale and uniform taxation over wider units of service.
2. Direct participation by voters over the size, funding and governance of libraries will usually lead to better services and enhanced taxpayer satisfaction.
3. Equity of funding for both operating and capital budgets will be achieved over a wider number of jurisdictions.
4. Public library districts could offer a solution to the often troublesome conflicts over the difference between library board and municipal powers.
5. Public library districts offer a better alternative to the current joint public libraries which have some limitations because of the need to satisfy the sometimes divergent views of two or more municipalities.
6. Public library districts provide an alternative to some current county library configurations.

Library District Cons

Larry Nix, the consultant in the Rock County review of library districts notes the following for negative aspects of library districts:

1. Forming a district library means that the library board will have to take on all of the responsibilities of an independent governing body. Many library boards would be unwilling to do this.
2. The library administration and staff will be required to perform many tasks currently performed by local government. This isn't reasonable for most small public libraries in Wisconsin.
3. Some of the major service benefits of public library districts would require the consolidation of multiple libraries. This would be a difficult sell to many communities.
4. Requiring that public library board members run for office would be unacceptable to many current public library trustees.
5. In some cases public library districts might actually increase the problem of crossover borrowing.
6. Formation of a district public library in a county could reduce the county funding available to reimburse other libraries for non-resident borrowing.
7. It will be difficult to convince voters in municipalities without libraries to join a district library if it means additional taxes.

8. Issues relating to staff benefits and security may pose an obstacle.
9. Ownership of library facilities would be transferred to the public library district. This could be a problem for some communities.
10. The public library district would take on any capital debt. This could be viewed as a negative in some cases depending on the amount of debt involved.

Sources for further information

<http://my.execpc.com/~nixlt/districts.htm>

Links to the planning report on the Arrowhead Library System's report on district formation prepared for libraries in Rock County by Consulting Librarian Larry Nix.

http://www.haplr-index.com/public_library_district_legislat.htm

Provides a narrative of Public Library District Legislation in 6 other states in the U.S. with district laws.

http://www.haplr-index.com/wider_and_wiser_units.htm

An article entitled "[*Are Wider Units Wiser?*](#)" by Thomas J. Hennen Jr. appeared in the June/July 2002 issue of **American Libraries**, the official publication of the American Library Association. These pages expand on that article. An article by Hennen on the KC Consensus study noted below is in the September 15 issue of Library Journal. It is entitled: ***Making Book***.

<http://www.haplr-index.com/MakingBook.htm>

Kansas City Consensus, a non-partisan independent public interest research firm, has just concluded a year long, in depth study of library needs in the greater Kansas City area. The full Kansas City Consensus report, along with the executive summary is available on the web at <http://www.kcconsensus.org>

Libraries using 2004 LSTA funds to consider district legislation

1. Greenfield-Greendale
2. Menomonee
3. Ozaukee
4. Sheboygan
5. Racine
6. Rock County (Arrowhead Library System)