

Rogers, Joan

From: Membiela, Clare (MDE) <MembielaC@michigan.gov>
Sent: Thursday, October 24, 2019 11:19 AM
To: Rogers, Joan
Subject: RE: Waterford Township Public Library - Resolution to Re-establish
Attachments: RESOLUTION TO REESTABLISH SAMPLE 2019.docx; HB4119amendmentprocedures.docx

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The original attachments were not modified.

Hello Joan:

Thank you for your patience with this -between travel for work, conferences and the fact that this procedure is very new (and aspects needed to be researched), this took much longer than I had foreseen. For that, I apologize!

Attached is your draft with suggestions in red. I reviewed the resolutions from other Charter Township Libraries and added the suggestions. I would also suggest that the board review the appendix you included with your original e-mail and re-adopt any provisions listed there which they wish to retain. Those provisions are no longer part of the statutes and vary from the Charter Township provisions. It is probably prudent to distinguish between the old statute and the new one under which you are re-establishing (for example, the township treasurer duties are no longer part of the statute – which doesn't mean that the treasurer can't still perform those duties, but the board will want to make sure that the procedures are designated somewhere in policies or a new appendix, if wished.)

Any provisions they wish to adopt can be added to the Resolution, or created as additional "rules and regulations" for operating the library (as permitted by the current statute (subsection(4)), via a new appendix or policies, etc.

Please run any final draft of the resolution by your Township or Library attorney to ensure that it meets the needs and wishes of your library as well as the law.

I am also enclosing a sheet we here at LM put together as a guideline for re-establishing under the new amendment.

Please note that the advisory board (if you currently have one) will have to be re-appointed as part of this re-establishment.

I hope this is helpful!

Clare D. Membiela, MLS, J.D.
Library Law Consultant
Library of Michigan
MembielaC@michigan.gov
517-335-8132

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Visit [Family Matters](#), call OSE Information Line at 888-320-8384 or Email: mde-ose@michigan.gov.

From: Rogers, Joan <JRogers@waterfordmi.gov>
Sent: Tuesday, September 24, 2019 4:29 PM
To: Membiela, Clare (MDE) <MembielaC@michigan.gov>
Subject: Waterford Township Public Library - Resolution to Re-establish

Hello Clare,

I think I have finally come up with a draft resolution on re-establishing our library under the new amendment signed into law in June. It's pretty darned rough so I'm hoping you can review it with an eye to revision. I have no ego attached to it, so feel free to be as brutal as you like. It is attached.

I am also sending you a copy of the original resolution establishing our library in 1963. You probably have a copy of this, but on the outside chance you don't... I did use that old format as a template.

Thanks so much for your help and encouragement to take this step,
Joan



Joan M. Rogers,
MSLS
Library Director
5168 Civic Center Dr
Waterford MI
48329
p. 248.618.7691

jrogers@waterfordmi.gov

Office Hours, generally: Monday – Thursday, 8:00a-5:00p, Saturday, 8:00a – 5:00p

Email secured by Check Point

From: "Membiela, Clare (MDE)" <MembielaC@michigan.gov>

Date: June 4, 2019 at 3:28:03 PM EDT

To: "Markee, Kimberly" <kmarkee@waterfordmi.gov>

Subject: RE: HB4119

Hello Kimberly:

HB 4119 just today, passed the Senate and its next stop is the Governor's desk.

Here is [a link](#) to the bill and related legislative information , such as the bill analyses.

This bill is designed to solve a problem caused in 1976 when the current Revised School Code repealed the former, 1955 School Code.

The 1955 School Code, 1955 PA 269, included a provision that permitted Townships to establish public libraries. This particular Township Library establishment type authorized the Township governing Board to act as the Library governing Board (rather than have a separate governing Board, as most public library establishment types do).

The 1976 Revised School Code repealed and replaced the entire 1955 School Code and in the process, got rid of this particular establishment type by excluding the language from the 1976 legislation.

The new, 1976 revised School Code did not include any transition language so existing 1955 PA 269 libraries had no instructions or information to explain their new status, or tell them what repeal meant.

Since the establishment statute no longer existed, remaining 1955 PA 269 libraries have been in an awkward position. The Library of Michigan has considered them "legally established" for purposes of State Aid & Penal Fines since the remaining PA 269 libraries had been formed legally when they were established. However, it became questionable as to whether this should continue, given that these 269 libraries had no valid governing law..

As the Library of Michigan worked with different 1955 PA 269 libraries over the years, different law specialists issued letters to these libraries informing them that their establishment statute had been repealed and that the library needed to re-establish. Generally PA 269 Township libraries had two options for re-establishment: They could form or join a District Library under 1989 PA 24, ([MCL 397.171 et. seq.](#)), or, they could become a Township Library under 1877 PA 164, section 10 ([MCL 397.210](#))

The majority of 1955 PA 269 libraries did, over the years, become either District Libraries or, became Township Libraries under 1877 PA 269. However, there were a few remaining libraries/Townships that did not wish to re-establish as one of these options. Many of these had municipalities that preferred the structure of a 1955 PA 269 library (with the Township Board as the Library governing Board). However, since 1976, there has not been a current establishment type for Townships that permitted this sort of structure.

In the 2000's., Charter Townships, under the Charter Township Act ([MCL 42.13a](#)) were granted the ability to establish Public Libraries, and the structure mimics the 1955 PA 269 model. However, the Charter Township Library establishment type includes specific population and other criteria that precluded most current 1955 PA 269 libraries located in Charter Townships from taking advantage of this statute to re-establish. In other words, until 2019, there simply was no establishment type that

would permit PA 269 Township libraries (Charter or General) to re-establish and maintain a structure similar to their current operation.

The current legislation would slightly expand the restrictions of Charter Township Libraries and enable Charter Townships to re-establish 1955 PA 269 libraries (or any other library operating under a repealed act – but as far as we can tell, 1955 PA 269 is the only relevant act where this is likely to apply) that exist in a Charter Township. Because the Charter Township Library type has a similar operating structure to a 1855 PA 269 library, this amendment would permit PA 269 Libraries that exist in Charter Townships to be re-established and operate under a valid establishment law, rather than have them continue to operate under a repealed law, in a sort of legal limbo.

Now, PA 269 Libraries in Charter Township CAN opt to re-establish as District or 1877 PA 164 Township Libraries. HB 4119 simply offers them an additional alternative – one that approximates their current operation.

Under the new legislation (which is NOT Law yet), a Charter Township would re-establish a 1955 PA 269 School Code Library by

“ adopting an ordinance or passing a resolution as provided by law. The board shall file a copy of the ordinance or resolution with the department of education within 10 8 days after adoption or passage”.
MCL 42.13a(1)(B) as amended by [HB 4119](#) (The ordinance or resolution would go to the Library of Michigan- since we are within the Department of Education)

Pa 269 libraries in General Townships will have to re-establish as either Districts or 1877 PA 164 Township libraries, as there is not currently an option for them that approximates the Charter Township Library.

Once HB 4119 is enacted, I will send out information on how Charter Townships can take advantage of this new law and re-establish applicable PA 269 libraries.

Does that make sense?

Please let me know if you have any questions, or if I can supply any additional information.

Thanks so much for your patience in awaiting my reply!

Sincerely,
Clare

Clare D. Membiela, MLS, J.D.
Library Law Consultant
Library of Michigan
MembielaC@michigan.gov
517-335-8132

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From: Catherine Mullhaupt <catherine@michigantownships.org>
Sent: Friday, June 28, 2019 1:57 PM
To: Markee, Kimberly <kmarkee@waterfordmi.gov>
Cc: Cindy Dodge <cindy@michigantownships.org>; Michael Selden <michael@michigantownships.org>
Subject: RE: Charter Township Act Section on Library

Kim:

You may have already covered this with Clare Membiela, but I corresponded with her this morning and I wanted to share her comments (pretty much what I was thinking). She is going to see if they have any examples, but you may want to work with her directly on this, as I am going to be out of the office all next week:

Under the new legislation, a library looking to re-establish under MCL 42.13a can pass either a resolution or an ordinance. Frankly, which they choose may depend on the library and how it's been operating, and what documentation is in place with regards to the powers/responsibilities of the library and its governing body (here, the Township Board).

An ordinance, arguably, provides for more specificity regarding the powers and regulation of the library- which is something we here at the Library of Michigan prefer. However, we would accept either.

The resolution/ordinances should be sent to MDE care of the State Librarian (see address below), as it is LM that would verify the status as a legally established library:

State Librarian
Randy Riley
702 W. Kalamazoo St.
PO Box 30007
Lansing MI 48909-7507

Catherine A. Mullhaupt, Staff Attorney
Member Information Services
Michigan Townships Association
(517) 321-6467 Fax: (517) 321-8908
Email: catherine@michigantownships.org

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