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## BILL ANALYSIS



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Senate Bill 521 and 522 (as introduced 9-29-15)  
Sponsor: Senator Ken Horn (S.B. 521)  
Senator Margaret O'Brien (S.B. 522)  
Committee: Outdoor Recreation and Tourism

Date Completed: 1-20-16

**CONTENT**

**Senate Bill 521** would enact the "Michigan Historical Commission Act" to:

- Create the Michigan Historical Commission as an advisory body within the Department of Natural Resources.
- Provide for the appointment of members to the Commission.
- Require the Commission to meet annually in Lansing, and at least four times a year.
- Specify the Commission's responsibilities, such as advising the Department on its responsibilities relating to preservation of historical artifacts, and reviewing the fee schedule for the Michigan Historical Center.

**Senate Bill 522** would enact the "Michigan Historical Center Act" to:

- Establish the Michigan Historical Center in the Department of Natural Resources.
- Require the Archives of Michigan and the Michigan Historical Museum to be operated under the control and supervision of the Center.
- Specify the responsibilities of the Center, such as advising the Department on history policies and programs, collecting and interpreting materials in all available media, and creating Michigan-focused educational programs.
- Allow the Department to authorize the Center to establish and operate a store.
- Establish the "Michigan Heritage Publications Fund" and the "Michigan Historical Center Operations Fund" and specify the disposition of money to and from those Funds.
- Require the Archives of Michigan to provide stewardship for archival records in all media.
- Require confidential records obtained by the Archives to be kept confidential pursuant to a written agreement.
- Allow the Archives to collect from public offices unused records that the Archives considered of value.
- Prohibit the disposal, mutilation, or destruction of a record required to be kept by a public officer or filed in a public office, or a record that was a memorial of a transaction made in the discharge of a public officer's duty.
- Allow the Department to promulgate rules necessary to implement the proposed Act.

The bill also would repeal Public Act 271 of 1913, which provides for the creation of the Michigan Historical Commission, specifies the Commission's duties, and provides for the disposition, collection, and preservation of certain public records.

The bills are tie-barred, and each would take effect 90 days after its enactment.

## **Senate Bill 521**

### Establishment & Operation of the Commission

The Michigan Historical Commission would include the following members:

- One member appointed by the Speaker of the House of Representatives.
- One member appointed by the Senate Majority Leader.
- The Director of the Department, or his or her representative, serving as an ex officio member.

The Commission also would include seven members appointed by the Governor with the advice and consent of the Senate. One of those members would have to be a representative of the Historical Society of Michigan. The Governor would have to make this appointment from a list of three people nominated by the Historical Society of Michigan.

A member appointed by the Governor would serve for four years; however, any member serving on the former Michigan Historical Commission on the bill's effective date would serve on the Commission until the expiration of his or her appointed term. A member of the Commission appointed by the Speaker of the House or the Senate Majority Leader would serve for a two-year term to coincide with the term of office of State Representative.

A Commission member could not receive any compensation for his or her services, except actual and necessary expenses while attending meetings or carrying out the Commission's purposes.

The Commission would have to meet annually in Lansing, and would have to meet at least four times each year. The Commission also would have to elect one of its members as president and one as vice president, appoint a secretary, and arrange a time and place for regular meetings and special meetings, as necessary.

The Commission would be subject to the Open Meetings Act and the Freedom of Information Act.

### Commission Responsibilities

The Commission would have to review the fee schedule for admissions fees at the Michigan Historical Center annually and make recommendations on any appropriate adjustments to those fees. If the Commission determined that a fee adjustment was appropriate, the Commission would have to submit a report to the chairpersons, vice-chairpersons, and minority vice-chairpersons of the Senate and House Appropriations Subcommittees on Natural Resources. The report would have to include a recommended admission fee schedule, provide a rationale for the recommended fee schedule, and make recommendations on the uses of any increases in the recommended fee schedule.

The Commission also would have to do all of the following:

- Advise the Department on its responsibilities related to the preservation of historical artifacts and the dissemination of information on Michigan history.
- Advise the Department and the Michigan Historical Center on the implementation of the Michigan Historical Center Act.
- Carry out other responsibilities as provided by law.

## Senate Bill 522

### Michigan Historical Center

The Michigan Historical Center would be established in the Department of Natural Resources.

The Archives of Michigan and the Michigan Historical Museum would have to be operated under the control and supervision of the Center. Using modern professional practices, the Center would have to do all of the following:

- Advise the Department of Natural Resources on history policies and programs and serve as a forum for citizen concerns and input.
- Create Michigan-focused educational programs and materials that reinforced adopted State educational standards.
- Provide professional assistance to other State and local government agencies related to records designated for preservation by approved records retention schedules.
- Use its resources to support heritage tourism and community development in the State.
- Represent the State in its partnership with the Thunder Bay National Marine Sanctuary and Underwater Preserve.

("Record" would mean any of the following: a) a document, paper, book, letter, or writing, including a document, paper, book, letter, or writing prepared by handwriting, typewriting, printing, photostating, photocopying, or electronic medium; b) a photograph; c) a film; d) a map; e) a magnetic or paper tape; f) a microform; g) a magnetic or punch card; h) a disc, drum, sound, or video recording; i) an electronic data processing material; j) recorded information in any electronic or digital file format, including individual letter, words, pictures, sounds, impulses, or symbols; or k) a combination of items listed above, regardless of physical form or characteristics.)

The Center also would have to collect, provide stewardship for, and interpret materials, including archival records in all available media, artifacts, oral histories, and published family history references, that documented and illustrated the history of the State and its people. The Center would have to make these materials available to the public in a manner consistent with their preservation for future generations, using techniques that included museum exhibits, historical markers, public programs, public research facilities, and online materials.

Money collected by the Center for Historical Markers, document reproduction and services, conferences, admissions, workshops, training classes, and the use of specialized equipment, facilities, exhibits, collections, and software would have to be used for expenses necessary to provide the required services. Subject to the annual appropriations process, the Michigan Historical Center could charge reasonable fees for admissions and other services. The Center could accept gifts and bequests, including tangible and intangible property, for the furtherance of its authorized purposes. Money collected would have to be forwarded to the State Treasurer for deposit into the Michigan Historical Center Operations Fund.

The Center could prepare historical materials for publication in print, electronic, or other format and sell those items at a reasonable price. The Department could establish, raise, and lower a selling price for books, reprints, maps, articles, calendars, and related items and could sell those materials; however, materials would have to be sold at a reasonable price.

The Center and the Historical Society of Michigan would have an interest in materials published in association with Michigan History magazine before October 1, 2009. The Historical Society of Michigan would be considered the owner of all such materials published after that date. The money collected from the sale of all publications or other materials would have to be credited to the Michigan Heritage Publications Fund.

### Michigan Heritage Publications Fund

The Michigan Heritage Publications Fund would be created within the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund, would have to direct investment of the Fund, and would have to credit to it interest and earnings from Fund investments. Money in the Publications Fund at the close of the fiscal year would have to remain in the Fund and would not lapse to the General Fund. The Department would have to be the administrator of the Fund for auditing purposes.

The Department would have use money in the Fund, upon appropriation, to pay the production, printing, distribution, and promotion costs of historical materials and to support Center programs.

### Michigan Historical Center Store

The Department could authorize the Center to establish and operate a store. The store could acquire and sell items that pertained to the Center's collections or purposes. Items sold by store could be acquired by purchase, gift, or consignment, and could be sold at the Center's discretion. The Center would have to allow a blind person to have priority to establish vending and cafeteria operations at the Center, as authorized by Public Act 260 of 1978.

A charge would have to be established for each item offered for sale at the store. The charge could include markups and discounts that were commensurate with industry practice. The Department could accept cash, check, or credit card payments as compensation for store items and would have to determine which credit cards would be acceptable for payment. The Department could purchase and place advertisements concerning items offered for sale at the store. The store could use the services of high school cooperative students and volunteers.

Money collected as described above would have to be forwarded to the State Treasurer for deposit into the Operations Fund. For the purposes of administering the museum store, the Department would be exempt from Section 261 of the Management and Budget Act. (Section 261 requires the Department of Technology, Management, and Budget to provide for the purchase of, the contracting for, and the provision of supplies, materials, and other items needed by State agencies.)

### Michigan Historical Museum

Within the Center, Michigan Historical Museum responsibilities would include accessioning and deaccessioning artifacts that should be preserved for future generations; providing stewardship for and access to those artifacts; managing historic sites and museums owned by the State; creating interpretive plans and exhibits for its managed sites and other sites within the Department of Natural Resources, with the exception of those operated by the Mackinac State Historic Parks; and administering programs that would support and extend the visitor experience at its managed sites.

Proceeds in excess of costs incurred in the conduct of auctions, sales, or transfers of artifacts no longer considered suitable for the Museum's collection could be spent when received for additional materials for the collection. The Department would have to notify the chairpersons, vice-chairpersons, and minority vice-chairpersons of the Senate and House Appropriations Subcommittees on Natural Resources one week before any auctions or sales. Money collected would have to be forwarded to the State Treasurer for deposit into the Operations Fund.

### Michigan Historical Center Operations Fund

The Michigan Historical Center Operations Fund would be created within the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the

Fund, would have to direct investment of the Fund, and would have to credit to it interest and earnings from Fund investments. Money in the Operations Fund at the close of the fiscal year would have to remain in the Fund and would not lapse to the General Fund. The Department would have to be the administrator of the Fund for auditing purposes.

The Department would have use money in the Fund, upon appropriation, to do any of the following:

- Purchase artifacts for the Center's collections.
- Restore artifacts in the Center's collections.
- Advertise and pay for educational programs, special exhibits, and special events, including performers, presented at the Center or another museum or historical facility operated by the Department.
- Provide free materials to school groups.
- Purchase items offered for sale at the store.
- Pay for any other expense incurred by the Center.

### Archives of Michigan

Within a site operated by the Center, the Archives of Michigan would have to provide stewardship for archival records in all media, oral histories, and published family history reference materials. The Archives' responsibilities would include determining which State government records should be transferred to the Archives for permanent preservation; collecting and preserving other records documenting life in Michigan; creating on-site and online access to its collections; certifying State documents, including the current State Constitution, for legal purposes; and working with local governments to ensure the preservation of the archival records.

### Records Obtained by the Archives

A record obtained by the Archives from a governmental agency that maintained the material on a confidential basis would have to be kept confidential under the terms of a written agreement. The agreement would have to be signed by the Director or a representative of the Department and a representative of the donating agency, would have to specify the terms and conditions under which the record would be kept confidential, and could include a provision for releasing the record for research purposes if the name of each individual identified in the record were protected from disclosure. If the Archives obtained a record from a person under such an agreement, it would have to keep the record confidential and could not make the record open to public inspection or copying for the period stated in the agreement, which could not be more than 20 years, or would have to terminate at the death of the person, whichever occurred first. The confidentiality requirements would apply only to a record that was exempt from disclosure under the Freedom of Information Act before the Archives received it.

A public record that was classified as confidential, including a birth or death record, would have to be made available for inspection and copying 75 years after the creation of the record. However, birth name indexes would have to be made available after 100 years and a birth record would have to be made available for inspection and copying 110 years after the creation of that record.

The Archives could collect from public offices records that were not in current use and were of value, in the Archive's opinion. A public official would have to assist the Archives in the collection of these records. The Archives would be the legal custodian of records collected and transferred to its possession. It would have to provide for record preservation, classification, arranging, and indexing so that the records could be made available for public use.

If the Archives determined that a public institution had a fireproof building and suitable arrangements for carefully keeping and safely storing a county's records, the records could be left in the possession of that institution. A list of the county records in the possession of another public institution would have to be furnished to the Archives and kept in its office. A copy of the Archives' finding that the depository was a safe and proper one would have to be made part of the Archives' official records. If made and certified to by the Center's archivist, a copy of such a record could be admitted in evidence in court, with the same effect as if certified to by the original custodian of the record.

A record that was required to be kept by a public officer in the discharge of duties imposed by law, that was required to be filed in a public office, or that was a memorial of a transaction of a public officer made in the discharge of a duty would be the property of the State, and could not be disposed of, mutilated, or destroyed except as provided by law.

The above requirements would not apply to a bond, bill, note, interest coupon, or other evidence of indebtedness issued by a State, county, multicounty, school, or municipal agency, department, board, commission, or institution of government.

The directing authority of each State, county, multicounty, school, or municipal agency, department, board, commission, or institution of government would have to present to the Archives a certified schedule governing disposal of, or a certified list or description of, the records that were useless and of no value to the governmental agency and to its duties to the public. The Archives would have to inspect the records and requisition for transfer from the directing authority to the Archives those records the Archives considered valuable.

As soon as possible after the inspection and transfer of records considered valuable, the directing authority would have to submit to the State Administrative Board the records retention schedule governing the disposal of, or the remainder of the list of, the records. The Board would have to approve or disapprove the disposal schedule or list and order the destruction of the valueless records accordingly.

Legislative Analyst: Jeff Mann

## **FISCAL IMPACT**

The bills would have a likely neutral fiscal impact on the Department of Natural Resources and no fiscal impact on local units of government. The legislation would repeal the Michigan Historical Commission law and replace it with two acts that would be similar to current law and practice. Because of this, the bills are not anticipated to have a significant fiscal impact on the Department of Natural Resources.

Fiscal Analyst: Josh Sefton

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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.