



**House  
Legislative  
Analysis  
Section**

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**CENSUS DISPUTE BETWEEN TWO  
LOCAL GOVERNMENT UNITS**

**House Bill 5001 (Substitute H-1)  
First Analysis (10-24-01)**

**Sponsor: Rep. Stephen F. Adamini  
Committee: Local Government and  
Urban Policy**

***THE APPARENT PROBLEM:***

Although the U. S. Census Bureau has a procedure for correcting miscounts, it can allegedly take up to two years before the census bureau issues an official corrected count. The Glenn Steil State Revenue Sharing Act of 1971 defines "population," for the purpose of distributing state revenue among cities, villages, townships, and counties, as the population according to the census bureau's official count. Thus, a census bureau miscount can profoundly impact a local unit of government's budget, which is especially frustrating for communities that believe that the miscount will reduce their share of distributed state revenue.

Currently, the treasury department follows a procedure allowing two local units of government to formally agree to a corrected population count for revenue sharing purposes. This is a general procedure allowing local units to rectify population miscounts, covering a wide range of cases, including both the erroneous attribution of certain residents to one unit rather than another as well as population count updates that reflect boundary changes due to annexation. If the units agree on a corrected count, that number is then used as the basis for revenue sharing purposes until the bureau issues an official corrected count. Often local units, wishing to promote healthy relations with their neighbors, work together amicably to settle on a correct number.

Following the publication of the 2000 population census figures, the City of Marquette and Chocolay Township found themselves involved in a dispute over a prison population that was attributed to Chocolay Township rather than the City of Marquette. The department has no general procedure for resolving disputes over population counts that local units of government cannot resolve themselves and no procedure for dealing with disputes over institutional populations specifically. Some people believe that the county clerk should be authorized to determine a correct institutional population count for

revenue sharing purposes in the event that two local units of government cannot agree on a count.

***THE CONTENT OF THE BILL:***

House Bill 5001 would amend the Glenn Steil State Revenue Sharing Act of 1971 (MCL 141.903) to establish a procedure for resolving certain disputes over population between two units of local government. Specifically, the bill would require the units of government to make a good faith effort to agree by resolution to a corrected population count, if they were involved in a dispute related to the total number of persons committed to, or domiciled in, an "institution" located in either unit. ("Institution" appears to refer to a city, village, or township institution located outside the boundaries of the city, village, or township or a county, state, or federal tax-supported institution, e.g., a prison or a mental health facility with patient residents. For revenue sharing purposes, only fifty percent of the total number of residents of such institutions are counted.) If they failed to agree to a correct count, the county clerk would determine the correct count. In either case, the corrected count would be used for revenue sharing distributions until a new federal or special census as provided by law, whichever came first, was conducted and the results were certified and published or until a federal census correction was published. Population counts agreed to, or determined, on or before August 1 of a year would become effective for distributions made on or before the immediately preceding October 1. For the year 2000 decennial census only, if two local units had a dispute but agreed by resolution to a correct population count before July 1, 2001, either local unit could request a review by the county clerk before December 31, 2001. If the county clerk made a determination of a correct count different from the count agreed upon by resolution, the resolutions would be void and the county clerk's determination would become effective for distributions made on and after the immediately preceding October 1. An

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agreement by resolution to a correct population count could not be entered into more than three years after the official release date of the federal decennial statewide census.

Currently, the law states that corrections to the statewide federal census that are published by the federal census bureau “and that occur during the period July 1, and ending June 30” become effective for the purpose of revenue distributions on the next July 1. The law also defines “rate” as “a figure determined each May 15 by the Department of Management and Budget pursuant to this act from applicable tax data for the preceding calendar year as reported to it by the Department of Treasury and applicable to payments made during the succeeding period of July 1 to June 30.” The bill would specify that any corrections to the statewide federal census that were published by the federal census bureau on or before September 30 of any year would become effective for the purpose of revenue distributions on the “next succeeding October 1.” The bill would direct the treasury department to determine the rate each August 15 and would specify that the rate would be applicable to payments made during the succeeding period of October 1 to September 30.

Finally, the bill would direct the treasury department—rather than the Department of Management and Budget—to calculate overpayments or underpayments made to local units of government and to make adjustments in future distributions to the unit to correct the overpayments or underpayments of revenue, when population data is updated.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency reports that the bill would have no direct fiscal impact on the state or on local governments. (10-24-01)

### ***ARGUMENTS:***

#### ***For:***

The bill would establish a mechanism to resolve a dispute between two local units concerning the total number of persons committed to or domiciled in an institution located in either unit, for revenue sharing purposes, if one unit believed that the other unit was not trying to resolve the dispute “in good faith.” Over time, population miscounts can greatly affect the amount of revenue sharing distributed to a local government, and this is unfair to communities who lose their “fair share” of state revenue due to an undercount. Ideally local units of government would agree to resolve their disputes amicably, but they do not always do so. Moreover, the fact that local units

*appear* to have resolved their disputes amicably in the past may not indicate true agreement. The appearance of amicable resolution may gloss over cases in which local units have come to a prudent realization that there is no alternative means of resolving disputes and thus would have to agree to settle for something rather than nothing. Authorizing the county clerk to make the final determination in such disputes acknowledges the potential complexity of miscounts of institutional populations and establishes a fair procedure for correcting them.

#### ***Against:***

Although the bill’s intent to provide a mechanism for the resolution of certain conflicts is commendable, it contains some basic flaws. First, it fails to consider the possibility of a dispute between municipalities located in different counties. Would such a dispute go to the county clerks involve or to the treasury department? Second, it is not clear that the county clerk alone should have the power to make such a determination. A clerk who resides in a community that is one of the disputing parties might not be completely unbiased. Moreover, since the bill covers institutional populations, perhaps the head of the institution, whether that be the president of a university or the warden of a prison, should have some input into the determination. Third, although establishing a procedure to resolve disputes over institutional population counts may address a problem that currently exists, it may exacerbate the problem by encouraging local units to take their problems to the county clerk rather than working them out among themselves, as they have done in the past.

#### ***Response:***

It is unclear whether local units who are at present disposed to resolve their problems in cooperation with neighboring communities will feel encouraged to take their disputes to the county clerk. Despite this possibility, local units who cannot resolve their differences amicably ought to have some recourse.

### ***POSITIONS:***

The Michigan Municipal League supports the bill. (10-24-01)

The Michigan Townships Association does not support the bill. (10-23-01)

Analyst: J. Caver

■ 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.