

## HISTORIC DISTRICT DESIGNATION

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**House Bill 5232 as introduced**  
**Sponsor: Rep. Chris Afendoulis**  
**Committee: Local Government**  
**Complete to 1-27-16**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 5232 would amend the Local Historic Districts Act by modifying the procedure for establishing or eliminating an historic district, changing the review process for considering exterior work on buildings within the historic district, and establishing a process for renewing or dissolving historic districts.

In order to establish an historic district, a local unit would need to do all of the following:

- Obtain preliminary approval of the proposed historic district from property owners;
- Appoint a historic district study committee, who are assigned specific tasks;
- Hold a public hearing within 60 days of the preliminary report;
- Receive a final report with recommendations from the committee within one year of the public hearing; then
- At its discretion, introduce and pass or reject an ordinance to establish a historic district, which would become operative only if:
- A majority of electors in the local unit also approves the establishment of a historic district.

The *preliminary approval requirement* and the *popular vote by the electorate* would be added by this bill, and the composition of the commission and the process of final approval of the historic district would be amended, as described in more detail below.

#### **Preliminary approval by the electorate**

Currently, there is no requirement to obtain preliminary approval from property owners. House Bill 5232 would add the requirement that the *local unit obtain preliminary approval of a proposed historic district from at least two-thirds of the property owners within that district, as listed on the tax rolls of the local unit, utilizing a written petition that includes a precise description of the boundaries of the proposed historic district.*

#### **Historic district study committee**

Now, the law does not require a specific number of individuals for the historic district study committee, but only that it "contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation" and contain representation of one or more local historic preservation organizations. The bill would provide that the *committee be composed of four to seven individuals, one of whom is an elected member of the legislative body of the local unit, one of whom is a representative of a local historic preservation organization, and at least one of whom is engaged in the business of residential or commercial construction.*

As before, the committee would conduct specific research and produce a report with its findings, for review by the local planning body and the Michigan Historical Commission. The bill would add the Michigan State Housing Development Authority<sup>1</sup> to the list of recipients. Also, the inclusion of a draft proposed ordinance in the committee's final report would be permissive rather than required.

#### **Ordinance conditioned on popular vote**

Finally, current law leaves introduction and passage or rejection of the ordinance establishing a historic district purely at the discretion of the legislative body of the local unit. House Bill 5232 would leave this discretion, but makes the *legislative body's ordinance conditionally effective, to take effect only if a majority of the electors approve the establishment of the historic district*. The vote would be taken at the next regular election held in the local unit that occurs at least 70 days after the passage of the conditionally effective ordinance.

The bill would also remove a prohibition on the local unit passing an ordinance establishing a contiguous historic district less than 60 days after property owners establish an historic district pursuant to a written petition.

#### **Responsibilities of historic district commission and legislative body**

An unchanged section of the Local Historic Districts Act establishes an historic district commission, which would ensure that the exterior appearance of homes within the district is in compliance with the historic character of the district.

Currently, if a permit for work is denied by the commission, an applicant may appeal to the state historic preservation review board within the Department of History, Arts, and Libraries. The bill would instead direct the appeal to the local unit's legislative body, to be reviewed at its first regularly scheduled meeting after receiving the appeal, and affirmed, modified, or set aside. Also, the bill would direct appeals from certificates of appropriateness, notices to proceed, and denials of applications for permits to the local unit's legislative body, where before they had been handled by the historic preservation review board.

The commission currently applies the United States Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings. The bill would allow the commission to consider different standards that it determines are in the best interest of the community. It also adds "reasonableness of the additional costs required to complete a historically accurate rehabilitation" to the list of factors the commission would consider when considering permits.

Additionally, at this time the commission may require an owner to repair conditions or repair those conditions itself if an historic resource within the historic district is threatened with demolition by neglect. House Bill 5232 would allow the commission to do so only

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<sup>1</sup> This process is moved from the Department of History, Arts, and Libraries, which no longer exists, to the Michigan State Housing Development Authority (MSHDA).

with approval of the local unit's legislative body. Also, under current law the commission may review and act upon interior arrangements in a building if specifically authorized to do so by the local legislative body. The bill would remove the ability of the commission to act on these interior arrangements under any circumstance.

**Considerations when eliminating or establishing additional historic districts**

The bill would add provisions for the consideration of establishing additional historic districts, and amend the provisions for eliminating an historic district.

When considering the *establishment of an additional historic district* or the modification of its boundaries, the procedure outlined above must be followed, i.e. petition describing the specific boundaries, historic district study committee, committee preliminary report and final report, and ordinance conditioned on a popular vote by the electorate.

When considering the *elimination of an historic district*, the local unit's legislative body may appoint an historic district study committee, but need not produce a petition describing its specific boundaries. Currently, the committee must issue a preliminary report, hold a public hearing, and issue a final report to show the reason elimination is in order. House Bill 5232 would eliminate those requirements, and instead deem an ordinance passed by the local unit's legislative body eliminating the historic district effective without the electors' approval.

**Renewal of historic district designation**

Currently, there is no end date for an historic district's designation as such. The bill would add a provision that current historic districts would cease to be considered so 10 years after the bill is enacted, unless that designation is approved by a popular vote at the election immediately preceding its dissolution as an historic district. Likewise, an historic district established under this bill would be dissolved after 10 years unless a popular vote at the election immediately preceding its dissolution approves its renewal as an historic district. A renewal approved under this subsection is effective on the date that the historic district would have otherwise dissolved.

MCL 399.201a et al.

**FISCAL IMPACT:**

House Bill 5232 would increase the costs of local units of governments attempting to set up new or modify existing historic districts due to the following provisions. The bill would require the local unit to obtain preliminary approval of at least 2/3 of the property owners within the proposed district. Costs of obtaining the approval would depend on the size of the proposed district, number of property owners, and the method of canvassing the property owners. The provisions of the bill would also shift the responsibility for appeals of work permit grievances from the state historic preservation review board to the legislative body of the local unit. Any costs to the local unit due to this change would be directly related to the number of appeals faced and the administrative work necessary to complete the appeal.

Instead of requiring the historic district commission to use the current U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings when reviewing a permit for conducting work on historic resource exterior, the provisions of the bill would only require the historic district commission to consult those standards. The historic district commission would be allowed to come up with alternative standards that it felt were in the best interest of the community. Additionally, the bill includes a new provision requiring the historic district commission to consider the reasonableness of the additional costs required to complete a historically accurate rehabilitation when reviewing a work plan. Finally, historic district commissions would only retain the authority to review and act upon interior changes if they would cause visible damage to the exterior of the resource. Local governments could not provide for a separate authorization allowing the historic district commission to review and act upon interior changes. The effect the proposed changes on work plan review standards would have on a new or existing historic district within a local unit of government is unknown and will vary across local units.

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