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BILL ANALYSIS

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Senate Bill 433 (as enrolled) (Public Act 33 of 1988)**Sponsor: Senator Harmon Cropsey****Senate Committee: Local Government and Veterans****House Committee: Towns and Counties****Date Completed: 8-22-88****RATIONALE**

Public Act 3 of 1895, which provides for the incorporation of villages, outlines steps to be taken when qualified electors of a village decide to vacate the incorporation; these steps include submitting petitions, holding a special meeting, and balloting. Some people contend that the law and its procedures are archaic and, instead of providing electors in a village an opportunity to vote on the issue of vacating incorporation, the law actually makes it more difficult. Supporters of changing the law point to two incidents that occurred in Muskegon and Kalamazoo Counties. In 1975, a village in Muskegon County called an election on disincorporation and conducted the election like a general election, as one way of trying to meet the requirements of Public Act 3. In January 1987, the Village of Climax, in Kalamazoo County, held an election at the same time it conducted a village meeting in order to comply with the law, after the village had sought advice from the village attorney, the Kalamazoo County clerk, and election officials within the Department of State. In light of these instances in which the method of disincorporation was handled differently each time, some people contend that the law should be updated and clarified to reflect current procedures for conducting a referendum election.

CONTENT

Senate Bill 433 would amend Public Act 3 of 1895, which provides for the incorporation of villages, to:

- Revise procedures for vacating incorporation of a village.
- Require that any proposition for vacating incorporation of a village be submitted to the qualified electors of the incorporated village at the next general election or at a special election.
- Provide language for a ballot proposition on vacating incorporation of a village.
- Require the village council to cause a transcript to be certified to the county clerk and Secretary of State, if a two-thirds majority of votes cast were in favor of vacating.
- Repeal current procedures found in Chapter XIV of the Act for vacating village incorporation, which include submitting petitions, holding a special meeting of the village electors, and balloting.

Any proposition to vacate incorporation of a village would have to be submitted to the qualified electors of the incorporated village at the next general election or at a special election.

The bill specifies that the proposed Act would not authorize the qualified electors of any incorporated village, or the

county board of commissioners, to vacate or alter any recorded plat of the village, or any street or alley in the village.

General Election

If the proposition were submitted to the qualified electors at the next general election, on or before August 30, the bill would require that the village council have voted by a majority vote to submit the proposition to the village electors, or that there had been filed with the village clerk petitions requesting the submission of the proposition, which had been signed by at least one-fourth of the village electors as shown by the registration list as of the close of registration prior to the last village election, requesting that the incorporation of the village be vacated. The petitions would have to be filed with the village clerk within 180 days after the date of the first signature on the first petition.

Special Election

If the proposition were submitted to the qualified electors at a special election, the special election could not be held less than 60 days after either the date the village council had voted to submit the proposition to the electors of the village or the date there had been filed with the village clerk petitions requesting the submission of the proposition. The date would have to be approved by the county election scheduling committee.

Election Procedures

The procedures for conducting the election would be those provided in the "general election law".

Ballot Proposition

The proposition to be submitted by ballot in the village would have to be substantially as follows:

"Shall the incorporation of the village of _____ be vacated?

Yes ☐

No ☐.

The ballots would have to be cast and canvassed, and the results of the election certified, in the same manner as ballots on any question submitted to the electors of the village. If a two-thirds majority of the village votes canvassed were in favor of vacating, the council, or a majority of the council, would immediately have to cause a transcript of all the proceedings in the case to be certified to the clerk of the county in which the village or the principal part of the village was located and to the Secretary of State.

Proposed MCL 74.18a

OVER

S.B. 433 (8-22-88)

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

Upon receipt of a petition, signed by at least one-fourth of the registered electors in a village, the village council is required under the current law to order that a special meeting of the village electors be held for voting on the question of disincorporation. The current procedures require that a type of town meeting be held for electors to vote on the issue. While the town meeting concept may have been appropriate almost a century ago when the law in question was enacted, today's working and living schedules do not make it feasible for electors to attend one meeting, which might not be scheduled for a time that is convenient for all electors. Thus, some voters may, in effect, be disenfranchised because they are unable to attend the meeting. The bill would require that the question of disincorporation be placed on the ballot at either the next general election or a special election. In addition, the election would have to be conducted according to procedures in the "general election law", which would include holding the election from 7 a.m. to 8 p.m. — as elections currently are held. This would provide ample opportunity for all qualified electors to vote.

Supporting Argument

Under State election laws, if a person has not voted in the past four years, that person's voter registration is placed in an inactive file where it can stay for up to six years — unless action is taken to restore it to the active file or expunge it from the file. Thus, a person could remain on the registration file for 10 years and not have voted in that time. Public Act 3 provides that a village must "order a special meeting of the electors of the village to be held for the purpose of voting on the question of vacating the incorporation of the village". Since the law is not clear if "electors" include inactive as well as active voters, theoretically the number required could include both inactive and active voters, which could amount to more people than there were actual residents of the village. By following general election procedures, as the bill specifies, the question of who would be eligible to vote would be dealt with under current election laws.

Supporting Argument

By requiring that procedures for conducting an election on disincorporation follow the "general election law", the bill would provide a mechanism for allowing the use of absentee-voter ballots, for which there are no provisions in Public Act 3. This would provide an opportunity for all electors in the village to vote.

Response: While the bill refers to the "general election law", it is not clear whether that means the Michigan Election Law (MCL 168.1 - 168.992). Also, election procedures as to posting notices on the date and time of the election, absentee ballots, etc. should be specifically mentioned in the bill so there would be no uncertainty as to the requirements.

Supporting Argument

In January 1987, the Village of Climax faced the issue of incorporation. Because the law was vague and out-of-date, the village had to seek advice from its attorney, the Kalamazoo County clerk, and State election

officials on how to implement the Public Act 3. The bill would go a long way in clarifying and updating procedures that villages must use when dealing with disincorporation, which would prevent other village officials from having to seek help in understanding the law. Legislative Analyst: L. Arasim

Fiscal Analyst: G. Olson

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.