

GENERAL LAW VILLAGES

House Bill 5437 (Substitute H-1, Draft 3)
Sponsor: Rep. Patricia Birkholz

House Bill 5438 (Substitute H-1, Draft 3)
Sponsor: Rep. George Mans

Committee: Local Government

Complete to 2-17-98

A SUMMARY OF HOUSE BILLS 5437 AND 5438 (SUBSTITUTES H-1, DRAFT 3)

The bills would amend the General Law Village Act (Public Act 3 of 1895). House Bill 5438 addresses Chapters I-VII, and House Bill 5437 addresses Chapters VIII-XIV. The following is a brief description of major provisions.

House Bill 5438. Among the bill's many provisions are the following.

** Villages could reduce the size of the council from seven to five. Village councils currently are made up of the village president and six trustees. A council could by a two-thirds vote adopt an ordinance to reduce the number of trustees to four. The ordinance would take effect 45 days after adoption unless a petition was filed during the 45-day period signed by at least ten percent of the registered electors of the village. The petition would force an election on the question of council reduction. Ballot language would be prepared by the village clerk. Subsequently, the number of trustees could be increased using the same process.

** Villages could provide by ordinance for appointed clerks or treasurers (or both) using the same process described above, except that if ballot language was needed, it would be prepared by the village council rather than the clerk. Treasurers and clerks are now elected. The process could be used subsequently to provide once again for the election of a treasurer or clerk. The bill also would eliminate the office of assessor and give those duties to the village treasurer.

** A village council could by resolution waive the residency requirement for an appointive office. Otherwise the act requires an elected or appointed officer to be an elector of the village.

** Currently, the act says a person cannot be appointed or elected to village office if he or she "has been or is a defaulter to the village or to any board of officers thereof, or to any school district, county, or other municipal corporation of the state." The bill would say instead that "a person in default to the village" would not be eligible for village office. The term "in default" would be defined in the bill.

** A council could by a two-thirds vote adopt an ordinance making elections non-partisan. (Village elections are currently partisan.) The ordinance would apply beginning with the first village election for which the nominating deadline was at least 30 days after the ordinance's

effective date. The ordinance would be subject to referendum if a petition with sufficient signatures was filed within 45 days after adoption of the ordinance (as with earlier provisions). The same process could subsequently be used to revert to partisan elections.

** A number of actions that now require a two-thirds vote would instead require a majority vote. These would include creating and abolishing an office; imposing a tax or assessment; vacating a street, alley, or public ground; purchasing, leasing, selling, or disposing of real estate; ordering a public improvement; and appropriating money.

** A village council could enter into a contract with a village manager extending beyond the terms of the members of the council. An employment contract would have to be in writing and specify the compensation of the manager and any procedure for changing compensation, any fringe benefits, and other conditions of employment. The contract would have to say that the manager serves at the pleasure of the council. The contract could provide for severance pay if the manager's employment was terminated at the pleasure of the council.

** The bill contains a "general powers" provision. It would specify that, except where otherwise provided or limited, a village "is vested with all the powers and immunities, expressed or implied, that villages are, or hereafter may be, permitted to exercise under the constitution and laws of the State of Michigan." It says that "the enumeration of particular powers or immunities is not exclusive." Specifically, under the bill, a village could exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government whether such powers were enumerated or not; do any act to advance the interests, good government, and prosperity of the village; and through its regularly constituted authority, pass and enforce all laws, ordinances, resolutions, and rules relating to its municipal concerns subject to the constitution and laws of the state. The powers of the village would have to be liberally construed in favor of the village and would include those fairly implied and not prohibited by law or constitution; and the specific powers listed in the act could not be construed as limited by the general powers set forth in the bill.

** A village council could provide for the powers conferred in the act at present on a board of cemetery trustees to be exercised by the director of a public works department or a village manager.

House Bill 5437. Among the bill's many provisions are the following.

** The term "taxable value" would be substituted in various places for "assessed value" to reflect changes in property tax administration since the imposition of the property tax assessment cap as part of Proposal A, enacted in 1994.

** The village president could nominate and the council appoint a chief of police. The office of village marshal (the name for the current police chief) would be eliminated. Further, the council could by ordinance delegate authority to the police chief to employ police officers and other personnel. The chief would serve at the pleasure of the council, unless some other condition of appointment had been agreed to, and would be subject to the direction of the president and

council or, if provided by ordinance, the village manager. The police force would have to comply with the minimum standards for law enforcement officers published by the law enforcement council under the Michigan Law Enforcement Officers Training Council Act of 1965.

** A village council could create by ordinance a department of public safety and delegate to it all the power, authority, and duties otherwise exercised by a fire department or police department, or both. (This means a police and fire department could be combined into a single public safety department, although the two could remain separate within a department of public safety.) If an ordinance called for the combining of existing police and fire departments, the ordinance would have to provide for a right of referendum. A director of public safety would be appointed and supervised in the same manner as a police chief. In fact, if a public safety department was created, any reference in statute or ordinance to a village police chief or fire chief would be considered a reference to the public safety director.

** The role of street commissioner would be eliminated and replaced by a street administrator (as that role is described in Public Act 51 of 1951). A council could also create by ordinance a department of public works to perform the duties of a street administrator and other duties authorized by law or by the council. The village manager could be designated as director of public works.

** The bill specifies that villages that want to acquire private property for the use and benefit of the public would have to follow procedures in the Uniform Condemnation Procedures Act. A number of separate provisions regarding the appropriation of private property would be repealed. The condemnation provisions would not prohibit a village from obtaining private property for a public use by negotiation and purchase. Further, the provisions would not permit a village to acquire property by condemnation that was located outside of the village.

** Provisions would be provided for the disincorporation of a village. The procedure involves first petitioning to place the question of appointing of a disincorporation commission on the ballot before village voters. If a commission was approved, it would have two years to produce a disincorporation plan, which itself would be put on the ballot in the village and the appropriate township or townships. If the voters rejected the appointment of a commission, or if the commission failed to adopt a plan, the process could not again be initiated for four years. If a plan was produced but rejected by voters, the process could not again begin for one year.

The commission would be composed of three members from each township into which the village would be disincorporated and an equal number of village representatives as total township members. The village appointments would be made by the village president with council approval, and the township appointments would be made by the township supervisor with board approval. The commission would be subject to the Freedom of Information Act and Open Meetings Act. A disincorporation plan would require a two-thirds vote from the village members and a two-thirds vote of members from each township represented. The bill specifies what issues a plan should address. The plan would have to be approved by a majority of the voters of the village and by a majority of the voters of each township involved. (The votes of village residents would not be taken into account in determining a majority in a township.)

** A village incorporated under the General Law Village Act could amend the act by complying with the provisions for amending a charter found in the Home Rule Village Act.

Repealers. The bills would repeal numerous sections of the current act, many of which would be superseded by new provisions in the bills.

MCL 61.1 et al.

Analyst: C. Couch

■ 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.