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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Reps. Birkholz, Brackenridge, Dobronski and Mans

Reps. Bankes, Bodem, Brater, Byl, Cassis, Crissman, Dalman, DeHart, DeVuyst, Dobb, Gagliardi, Geiger, Gilmer, Gire, Goschka, Hammerstrom, Horton, Jansen, Jelinek, Jellema, Johnson, Kelly, Kukuk, Law, Llewellyn, McBryde, Middleton, Oxender, Perricone, Raczkowski, Rhead, Richner, Rocca, Schroer, Sikkema, Varga, Vaughn and Voorhees named co-sponsors

ENROLLED HOUSE BILL No. 5437

AN ACT to amend 1895 PA 3, entitled "An act to provide for the incorporation of villages; to define their powers and duties; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by villages; to define the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to define the application of this act and provide for its amendment by villages subject thereto; and to validate prior amendments and certain prior actions taken and bonds issued by villages," by amending sections 31 and 34 of chapter VIII, sections 1, 4, 5, 6, 7, 8, 9, 13, 14, 15, 16, 17, 20, 21, 22, 24, and 25 of chapter IX, sections 1, 2, 3, 4, 6, 9, and 11 of chapter X, sections 1, 2, 5, 6, 8, 9, 10, and 11 of chapter XI, sections 1, 3, 4, 5, 6, 7, 8, and 9 of chapter XII, sections 1, 2, 3, 4, and 5 of chapter XIII, and sections 3, 5, 7, 18a, 19, 20, and 21 of chapter XIV (MCL 68.31, 68.34, 69.1, 69.4, 69.5, 69.6, 69.7, 69.8, 69.9, 69.13, 69.14, 69.15, 69.16, 69.17, 69.20, 69.21, 69.22, 69.24, 69.25, 70.1, 70.2, 70.3, 70.4, 70.6, 70.9, 70.11, 71.1, 71.2, 71.5, 71.6, 71.8, 71.9, 71.10, 71.11, 72.1, 72.3, 72.4, 72.5, 72.6, 72.7, 72.8, 72.9, 73.1, 73.2, 73.3, 73.4, 73.5, 74.3, 74.5, 74.7, 74.18a, 74.19, 74.20, and 74.21), section 15 of chapter IX as amended by 1984 PA 179, sections 1 and 4 of chapter X as amended by 1985 PA 173, section 5 of chapter XII as amended by 1983 PA 44, and section 18a of chapter XIV as added by 1988 PA 33, and by adding section 7a to chapter IX, sections 13, 14, 15, 16, and 18 to chapter X, sections 12, 13, and 14 to chapter XI, and sections 6a, 23, 23a, 23b, 23c, 23d, 23e, 23f, 23g, 23h, 23i, and 24 to chapter XIV; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER VIII—IMPROVEMENTS AND ASSESSMENTS.

Sec. 31. The council of the village by adopting a resolution pursuant to section 5 of chapter V may determine that the whole or a part of the expense of a local public improvement or repair shall be defrayed by special assessments upon the property specially benefited.

Sec. 34. An action to contest the collection of a special assessment shall be instituted under the tax tribunal act, 1973 PA 186, MCL 205.701 to 205.779.

CHAPTER IX—FINANCE AND TAXATION.

Sec. 1. (1) Actions taken by the council under this chapter are subject to the voting requirements of section 5 of chapter V. However, the council shall not increase a tax or impose a special assessment except by an affirmative vote of 2/3 of the members of council.

(2) The council may raise, by general tax upon the real and personal property liable to taxation in the village (exclusive of taxes for highway and street purposes and not otherwise provided for in this act), a sum not exceeding in any 1 year 1-1/4% of the assessed value of that property, to defray the general expenses and liabilities of the village, and to carry into effect the powers in this act granted. The money so raised constitutes a "general fund".

Sec. 4. The council may for the purpose of purchasing grounds for a cemetery, raise by general tax a sum not exceeding in any 1 year, 1/4 of 1% of the taxable value of the property in the village. However, the total sum that may be raised for the purchase of grounds for that purpose shall not at any time exceed \$5,000.00. The council may, for the purpose of maintaining the cemetery, raise by general tax a sum not exceeding in any 1 year 1/10 of 1% of the taxable value of the property in the village.

Sec. 5. The council may raise by special assessment upon the lands in sewer districts and special assessment districts, for the purpose of defraying the cost and expense of grading, paving, and graveling streets, and for constructing drains and sewers, and for making other local improvements, charged upon the lands in the district in proportion to frontage or benefits, such sums as they shall consider necessary to defray the costs of the improvements. Money raised by special assessments to defray the expense of any such local improvement shall be held as a special fund to pay the expense, or to repay money borrowed for the improvement.

Sec. 6. The council shall raise annually by taxation an amount such that the estimated collections will be sufficient to promptly pay when due the interest, that portion of the principal, and the required sinking fund deposits on the outstanding bonds or other evidences of indebtedness, or assessments or contract obligations in anticipation of which bonds were issued, falling due prior to the time of the following year's tax collections. The tax shall be without limitation as to rate or amount and in addition to any other tax the village may levy but shall not be in excess of the rate or amount necessary to pay the principal and interest or assessments or contract obligations. If at the time of making an annual tax levy, surplus money is on hand for the payment of principal or interest and provision for disposition of the money was not made, then credit for the surplus may be taken against the amount to be raised for principal or interest as the case may be. The money so raised shall be used solely for the purpose stated in this section.

Sec. 7. Within 2 weeks after an annual village election for members of the council, the council shall audit and settle the accounts of the treasurer and other officers of the village, and so far as practicable, of all persons having claims against the village. The council shall prepare a statement summarizing the results of the audit.

Sec. 7a. The fiscal year of a village shall commence on March 1 of each year. The council may by ordinance adopt another date for the commencement of the village's fiscal year. The fiscal year of any village subject to this act that commences on a date other than March 1 on the effective date of the amendatory act that added this section is hereby ratified and shall continue until changed or modified pursuant to this section.

Sec. 8. The treasurer of a village subject to this act shall, in each year, at and within the same time as required by the general laws of this state for the assessment of property in the townships of this state, make an assessment roll containing a description of all the real property and the aggregate amount of all the personal property liable under the laws of the state to taxation in the village, and the name of the owner, agent, or other person liable to pay taxes. The treasurer shall record on the roll the valuation of such property, at its value, as determined by the assessor of the township where the property is located, placing the value of the real and personal property in separate columns. In fulfilling the requirements of this section, the treasurer shall conform to and be governed by the law governing supervisors of townships performing like services, unless otherwise in this act provided. However, if in any year it is not necessary to raise any money by taxation in a village, the council of the village may so determine by resolution, and shall certify the determination to the treasurer. The treasurer shall not make any assessment roll of property in the village for that year.

Sec. 9. The board of review of the township where the village is located shall review the assessment roll in the same manner, at the same time and place, and pursuant to the same processes as provided in sections 28 to 33 of the general property tax act, 1893 PA 206, MCL 211.28 to 211.33.

Sec. 13. The council, after an examination of the assessment roll, shall certify to the treasurer the assessment roll, together with the amount which they require to be raised by general tax, for highway and other general purposes and all amounts of special assessments which they require to be reassessed upon any lands or premises with a particular

description of the lands and property to be reassessed, and the amounts to be reassessed upon each parcel of land, and the name or names, so far as known, of the persons chargeable with the taxes and assessments. The certificate shall be endorsed upon or annexed to the roll and signed by the president and clerk.

Sec. 14. Upon receiving the assessment roll, with the certificate of the several amounts to be raised, as provided in section 13 of this chapter, the treasurer shall estimate, apportion, and set down in columns opposite to the several valuations of real and personal property on the roll, in proportion to the individual and particular estimates and valuations, the respective sums in dollars and cents, apportionable to each; placing the general fund taxes and all general taxes, except those for highway purposes, in 1 column; the general highway taxes in another column; the street district taxes, if any, in a third column; all special assessment taxes in a fourth column; and the total of all taxes assessed to each valuation in the last column of the roll. The treasurer shall also foot up the amounts carried to the last column, and certify upon the roll the aggregate amounts of the taxes levied.

Sec. 15. The warrant of the president of the village shall be annexed to the roll, directing and requiring the treasurer to collect from the persons named in the roll the sums mentioned opposite their respective names, as a tax or assessment, and authorizing him or her, in case any person named on the roll shall neglect or refuse to pay the sums, to collect the sums, together with fees and charges, in the manner provided in section 17 of this chapter. The warrant shall direct the treasurer to collect all taxes by a certain day as determined under section 18 of this chapter. The president may renew the warrant from time to time, by order of the council, and for a time as the council shall direct, except that the time shall not be extended later than the last day of February of the year following the levy of the village taxes.

Sec. 16. Immediately upon receiving the tax roll, with the warrant annexed, as provided in section 15 of this chapter, the treasurer shall proceed to collect the taxes levied according to the direction of the warrant, together with the fees authorized by law.

Sec. 17. If a person, including a firm or corporation, does not pay a tax imposed upon real or personal property belonging to that person, the treasurer shall collect the tax by seizing the personal property of that person located in this state in an amount sufficient to pay the tax, the fees, and charges for subsequent sale of the property. No property of the person shall be exempt from such seizure. The treasurer shall comply with the requirements of section 47 of the general property tax act, 1893 PA 206, MCL 211.47. The treasurer shall have the same powers and perform the same duties, so far as applicable, as township treasurers, in the collection of taxes levied in townships.

Sec. 20. If the treasurer is unable to collect a tax assessed upon personal property in the village, the treasurer of the village may bring an action, in the name of the village, for the recovery of the tax, against any persons against whom the tax was assessed, before a court of competent jurisdiction, and take and use all lawful means provided by law for the collection of debts to enforce the payment of the tax. In such cases, the provisions of law applicable to suits and the evidence therein, brought by township treasurers in the name of their township for such purposes, apply. The court may order the person or persons assessed the personal property tax to pay the amounts authorized under section 47 of the general property tax act, 1893 PA 206, MCL 211.47.

Sec. 21. Subject to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, the council may borrow money, and give notes of the village, in anticipation of 1 or more of the following:

(a) The receipt of revenue sharing payments under the state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921.

(b) The collection of taxes.

Sec. 22. (1) Should any greater amount be required in any year for any lawful purpose than can otherwise be raised by the council under this chapter, the amount may be raised by tax or loan, or partly by tax and partly by loan. If approved by a majority vote of the electors at an annual or special village election, the council may levy a tax which, in any year, shall not exceed 2% of the assessed valuation of the real and personal property within the village, as shown by the last preceding assessment roll of the village.

(2) The amount of indebtedness incurred by the issue of bonds or otherwise, including existing indebtedness, shall not exceed 10% of the assessed valuation of the real and personal property within the village subject to taxation as shown by the last preceding assessment roll of the village. Bonds issued in anticipation of the collection of special assessments even though the bonds are a general obligation of the village, motor vehicle highway fund bonds even though they are a general obligation of the village, revenue bonds, or bonds issued or contract or assessment obligations incurred to comply with an order of the department of environmental quality or a court of competent jurisdiction, even though they are a general obligation of the village and bonds issued or contract or assessment obligations incurred for water supply, sewage, drainage, or refuse disposal necessary to protect the public health by abating pollution even

though they are a general obligation of the village, are not included in this limitation. Money on hand in a sinking fund limited to the payment of indebtedness may be treated as a reduction of the indebtedness to that extent. In case of fire, flood, or other calamity requiring an emergency fund for the relief of the inhabitants of the village, or for the repairing or rebuilding of any of its municipal buildings, works, bridges, or streets, the council may borrow money due in not more than 3 years and in an amount not exceeding 1/4 of 1% of the taxable valuation of the village, notwithstanding that the loan may increase the indebtedness of the village beyond the limitations fixed by this section. If a village is authorized to acquire or operate a public utility, the village may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by this section. The mortgage bonds issued beyond the limit of general indebtedness prescribed by this section shall not impose any liability upon the village, but shall be secured only upon the property and revenues of the public utility, including its franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the public utility; which franchise shall not extend for a period of more than 20 years from the date of the sale of the utility and franchise on foreclosure. All bonds issued, or contract or assessment obligations incurred, before January 30, 1974 are validated.

Sec. 24. Disbursements may be made from the treasury under either of the following procedures:

(a) Upon appropriation by the council and the warrant of the clerk, countersigned by the president. The warrant shall specify the fund from which the money is payable, and shall be paid from no other fund. A warrant shall not be drawn upon the treasury after the fund from which it should be paid has been exhausted, and such a warrant is void.

(b) Pursuant to an ordinance or resolution under section 5 of chapter V.

Sec. 25. A loan may not be made by the council or by its authority in any year, exceeding the amounts prescribed in this act. For a loan lawfully made, the bonds of the village may be issued subject to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3. Interest on the bonds shall not exceed the maximum rate permitted by the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3. The bonds shall be executed in the manner directed by the council. Bonds issued or indebtedness incurred by a village before January 30, 1974 are validated.

CHAPTER X—FIRES AND FIRE DEPARTMENT, POLICE DEPARTMENT.

Sec. 1. The council may adopt ordinances and regulations to protect against fires and may establish and maintain a fire department and organize and maintain fire companies. Unless otherwise provided in an ordinance adopted under section 8 of chapter V that delegates the authority to the fire chief, the council may employ and appoint fire fighters; and make and establish rules and regulations for the government of the department, the employees, fire fighters, and officers of the department; and for the care and management of the vehicles, equipment, property, and buildings of the department. Fire fighters shall comply with the fire fighters training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377.

Sec. 2. The council may purchase and provide suitable vehicles and equipment for the extinguishment of fires; and provide for a convenient supply of water for the use of the fire department.

Sec. 3. The council may also provide or erect all necessary buildings for keeping the vehicles and equipment of the fire department.

Sec. 4. The council may provide by ordinance or resolution for the appointment of a chief of the fire department, who shall be subject to the direction of the president and the regulations of the council. The chief of the fire department shall supervise and direct the department, and the care and management of the vehicles, equipment, and property of the department. This section is subject to an ordinance adopted under section 8 of chapter V.

Sec. 6. (1) The council may provide by ordinance for the storage and handling of combustible, explosive, or other hazardous substances.

(2) The council may provide by ordinance for the prevention and suppression of fires. The ordinance may prescribe, but need not be limited to, the manner of construction of buildings and other structures within the village or certain districts of the village.

(3) The council may provide by ordinance for the appointment of fire inspectors, and may appoint fire inspectors. The ordinance may provide for the periodic examination by the fire inspectors of the stoves, furnaces, and heating apparatus and devices in all dwellings, buildings, and structures within the village, and in all places where combustible or explosive substances are kept, and authorize fire inspectors to require stoves, furnaces, and heating apparatus and devices that pose a fire hazard to be put in a safe condition.

(4) The authority granted under this section is subject to state and federal law.

Sec. 9. Every building or structure erected, placed, enlarged, or kept, in violation of any ordinance or regulation lawfully made for the prevention of fires, is a nuisance, and may be abated or removed by the direction of the council under procedures set forth in an ordinance adopted for that purpose.

Sec. 11. (1) The chief in charge of the department at any fire, with the concurrence of the president or any 2 trustees, may cause any building to be pulled down or destroyed to arrest the progress of the fire.

(2) If a building is so pulled down or destroyed, a person having an interest in the building may present a claim for damages to the council of the village. The council shall pay the claimant damages as may be just under all the circumstances, taking into consideration whether or not such loss would probably have occurred to the building even if it had not been pulled down or destroyed, and whether the building was insured or not.

(3) If the council and the claimant are not able to agree upon the amount of damages to be paid, then the amount of damages shall be ascertained by the appraisal of a jury to be selected in the same manner as in cases of a jury to appraise damages for taking private property for public use. The jury may visit the premises and may hear all the proofs in the case, and shall allow the claimant the amount of damages as they may consider proper under the standard set forth in subsection (2).

(4) If the jury is not able to agree, a new jury shall be empaneled as provided in subsection (3) until a jury is obtained that does agree.

(5) The council shall pay such claimant the amount of damages fixed by a jury under subsection (3) or (4).

Sec. 13. (1) The council may establish a police force, and may authorize the president to appoint, with the consent of the council, the number of police officers and other personnel that the council considers expedient for the good government of the village and protection of persons and property. The council by ordinance may delegate authority to the police chief to employ police officers and other personnel. This subsection is subject to an ordinance adopted under section 8 of chapter V.

(2) The police force shall comply with the minimum employment standards for law enforcement officers published by the law enforcement council under the Michigan law enforcement officers training council act of 1965, 1965 PA 203, MCL 26.601 to 26.616.

Sec. 14. The council shall adopt rules for the government of the police, prescribe the powers and duties of police officers and other personnel, and invest them with authority necessary for the preservation of quiet and good order in the village. The police shall suppress riots, disturbances, and breaches of the peace; arrest any person fleeing from justice; apprehend upon view any person found violating a state law or village ordinance in a manner involving a breach of the peace and, unless the violation constitutes a civil infraction, take the offender before the proper magistrate or officer, to be punished; make complaints before the proper magistrate of any person known or believed by the police to have violated a state law or village ordinance; serve process that may be delivered to the police for that purpose; and generally perform duties required by the council for the good government of the village.

Sec. 15. The president may nominate and the council may appoint a chief of police of the village. The police chief shall serve at the pleasure of the council, unless the council has agreed to some other condition of appointment, and is subject to the direction of the president and council, or, if provided by ordinance adopted under section 8 of chapter V, the village manager. The police chief shall see that all the ordinances and regulations of the council, made for the preservation of quiet, and good order, and the protection of persons and property, are promptly enforced.

Sec. 16. (1) A police officer of the village, within the village, is vested with all the powers conferred upon sheriffs for the preservation of quiet and good order and has the power to serve and execute all process directed or delivered to the police chief, in all proceedings for violations of the ordinances of the village.

(2) A police officer of a village has the same authority within the village as a deputy sheriff to execute a bench warrant for arrest issued by a court of record or a municipal court.

Sec. 18. (1) The council may by ordinance create a department of public safety and delegate to it all the power, authority, and duties which may be exercised by a fire department or a police department or both. If the ordinance provides for the combination of existing police and fire entities, it shall provide for a right of referendum and become effective as provided in section 1(4) of chapter II.

(2) The department of public safety shall be headed by the director of public safety, who shall be the commanding officer of the department. The president shall nominate and the council appoint the director of public safety. The director of public safety is subject to the direction of the president and council, or, if provided by ordinance adopted under section 8 of chapter V, the village manager.

(3) If authorized by ordinance, the director of public safety may employ public safety officers and other personnel. The director of public safety shall direct the police and fire work of the village and be responsible for the enforcement

of law and order, the protection of life and property against fire, and the performance of other public services of an emergency nature assigned to the department of public safety.

(4) If a department of public safety is established, a reference to the chief of police or the chief of the fire department contained in a state statute or village ordinance shall be considered to refer to the director of public safety.

(5) The council may structure the department of public safety so that separate police and fire entities may be continued.

CHAPTER XI—WATER WORKS.

Sec. 1. Any village may purchase or construct and may maintain water works to provide the village with pure water.

Sec. 2. The village may acquire, purchase, erect, and maintain the reservoirs, canals, aqueducts, sluices, buildings, engines, water wheels, pumps, hydraulic machines, distributing pipes, and other apparatus, appurtenances, and machinery, and may acquire, purchase, appropriate, and own such grounds, real estate, rights, and privileges that are necessary and proper for securing, constructing, rebuilding, repairing, extending, and maintenance of those water works or filtration plants.

Sec. 5. The connecting or supplying pipes, leading from buildings or yards to the distributing pipes, shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be connected with the main pipe until a permit is obtained from the village. Connecting or supply pipes shall be constructed and connected in the manner prescribed by ordinance.

Sec. 6. The council shall establish just and equitable water rates to be charged and paid for water supply. The council shall periodically either modify, amend, increase, or diminish the water rates. The council may prescribe by ordinance when and to whom such water rates shall be paid, and what steps shall be taken to enforce payment of the water rates, including, but not limited to, notice to persons who fail to pay the rates that their supply of water may be shut off, and may provide, in case of nonpayment, that the supply of water may be shut off or stopped as to any person or persons neglecting or refusing to make payment.

Sec. 8. If the council considers it in the public interest, the village may purchase or construct and may maintain a water works beyond the corporate limits of the village. In such case the council may enforce beyond the corporate limits of the village, have control over the buildings, machinery, and other property belonging to and connected with the water works, in the same manner and to the same extent as if located within the village, and adopt and enforce ordinances and police regulations as may be necessary for the care, protection, preservation, management, and control of the water works. However, nothing in this section prohibits another local governmental unit from enforcing its ordinances within its limits.

Sec. 9. For the purpose of operating or constructing and maintaining such water works, the village may, after obtaining appropriate rights as provided by law, use the ground or soil under any street, highway, or road for the purpose of introducing water into and through any and all portions of the village, and repairing and relaying water pipes.

Sec. 10. If it shall be necessary, in the judgment of the council, to appropriate private property for the construction, maintenance, or operation of water works, the right to occupy and hold the same and the ownership or easement rights may be acquired by the village in the manner provided by the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75.

Sec. 11. The council may contract from year to year, or for a period not exceeding 10 years, with a person to supply the village with water and may grant to the person the right to the use of the streets, alleys, wharves, and public grounds of the village as necessary to construct, maintain, and operate proper works for the supply of water for the village upon terms and conditions specified in the contract.

Sec. 12. Unless otherwise provided by ordinance adopted under section 8 of chapter V, as directed by the council, the street administrator designated under section 13 of 1951 PA 51, MCL 247.663, shall perform, or cause to be performed under his or her supervision, labor, repairs, and improvements upon the highways, streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds, and parks within the village.

Sec. 13. The street administrator shall provide the council, in writing and on oath once in each month, an exact report of all labor performed by the street administrator, or under his or her supervision, and the charges therefor; the amount of material used, and the expense thereof; the street or other place where the material was used, or labor performed; and the items and purpose of all expenses incurred since his or her last preceding report.

Sec. 14. The council by ordinance may establish a department of public works to perform the duties of the street administrator and other duties authorized by this act or by the council. The ordinance shall provide that the president shall nominate and the council shall appoint a director of public works. The council may designate the village manager as director of public works in an ordinance enacted pursuant to section 8 of chapter V.

CHAPTER XII—LIGHTING.

Sec. 1. A village may purchase or construct, and operate and maintain either independently or in connection with the water works of the village, either within or without the village, works to supply the village with gas, electric, or other lights, at such times and on such terms and conditions as directed by the council under this chapter.

Sec. 3. To exercise the powers granted by section 1 of this chapter, the council shall adopt a resolution declaring that it is expedient for such village to acquire by purchase or construction, as applicable, works to supply the village with electric or other lights, and shall make and record in their proceedings an estimate of the expense. The question of financing the estimated amount or that part of the estimated amount not in excess of limitations on indebtedness of the village provided by law shall be submitted to the electors of the village at its annual election, or at a special election called for that purpose by the council as provided in this act. Approval of the proposal requires the affirmative vote of 2/3 of the electors voting at such election by ballot. If the voters approve financing a part of the estimated amount not in excess of the limitations on indebtedness of the village, the council shall not incur any indebtedness for lighting works on the general faith and credit of the village until the charter is amended to permit the issuance of mortgage bonds on the proposed lighting plant, its revenues and franchise, in excess of the general limitations on indebtedness as provided by this act, in an amount equal to the difference between the indebtedness authorized by this act, and the estimated amount.

Sec. 4. (1) A village may borrow a sum of money not exceeding 5% of the taxable value of the property in the village as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing or constructing and maintaining lighting works as provided in this chapter. The council may fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and issue bonds of the village therefor, but the rate of interest shall not exceed 6% per annum, and the bonds shall not be sold for less than their par value.

(2) The total amount expended for the purchase or construction of the lighting works shall not exceed the amount of the estimate of expense therefor provided for in section 3 of this chapter.

Sec. 5. (1) After lighting works have been purchased or constructed in the village as provided in this chapter, the council may raise and expend money to repair, alter, or extend the lighting works without submitting the question to the electors of the village. However, the sum to be so raised, in any 1 year, shall be included in, and shall not increase the total amount that the council is authorized to raise under section 1 of chapter IX.

(2) Instead of raising such funds by tax, the council may, by a contract that does not impose a general obligation on the village, provide for repairs, alterations, or extensions of the lighting works. The contract shall provide for payment of the contract out of the net revenues which, after payment of obligations due, provision for payment of obligations to become due, and payment of legitimate and necessary operating and other expenses are available from the operation of the lighting works after completion of the repairs, alterations, or extensions. The contract shall provide for the retention of title to materials furnished in the seller until paid for in full. However, a contract made under this section does not deprive the people of the village of any right vested in them by the constitution or the laws of this state, grant a franchise or its operating equivalent, or convey title to property to any person not possessed of such title before the execution of the title retaining contract. Unless an exception from prior approval is available under subsection (4), a title retaining contract shall be approved by the department of treasury or its successor agency before becoming binding upon the village. The department of treasury or its successor agency shall determine its approval or disapproval upon all of the following factors:

(a) Whether the contract conforms to this act.

(b) Whether after payment of legitimate and necessary operating and other expenses, and payments due or to become due on any existing obligations, the probable revenues pledged to the payment of the contract will be sufficient to pay the principal and interest on the contract when due.

(c) Whether the cost of the repairs, alterations, or extensions to be paid by the contract are excessive.

(3) Instead of raising funds to repair, alter, or extend the lighting works by tax as provided by section 1 of chapter IX, or using funds available from the operation of the lighting works, as provided in this section, the council may borrow money and issue bonds in the manner provided in section 3 of this chapter for the acquisition or construction of lighting works, except that approval of the proposal requires the affirmative vote of 3/5 of the electors voting on the question.

(4) The requirement of subsection (2) for obtaining the prior approval of the department of treasury or its successor agency before a title retaining contract may become binding is subject to sections 10 and 11 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.10 and 133.11, and the department of treasury shall have the same authority as provided by section 11 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.11, to issue an order providing or denying an exception from the prior approval required by subsection (2) for a title retaining contract authorized by this section.

Sec. 6. The council may fix the just and equitable rates for supplying the village with lights.

Sec. 7. If it is necessary in the judgment of the council to appropriate private property for the construction and maintenance, or for the due operation of lighting works, the village may do so in the manner provided in the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75.

Sec. 8. The council may contract from year to year, or for a period not exceeding 10 years, with a person to supply the village with gas, electric, or other lights and may grant to the person the right to the use of the streets, alleys, wharves, and public grounds of the village as necessary to construct, maintain, and operate proper works for the supplying of such light upon terms and conditions specified in the contract.

Sec. 9. The council may enact such ordinances and adopt resolutions for the care, protection, preservation, and control of the lighting works, and all the fixtures, appurtenances, apparatus, buildings, and machinery connected with or belonging to the lighting works, and to exercise the powers granted by this chapter.

CHAPTER XIII—APPROPRIATION OF PRIVATE PROPERTY.

Sec. 1. Private property may be taken for public use in a village for opening, widening, altering, and extending streets, alleys, and avenues; for the construction of bridges, public buildings, and other public structures; for public grounds, parks, marketplaces, and spaces; for public wharves, docks, slips, basins, and landings on navigable waters; for the improvement of sanitary sewers, drains, ditches, storm water systems, water supply systems, and watercourses; for public hospitals; and for other lawful and necessary public uses.

Sec. 2. To initiate the acquisition of private property, the council shall adopt a resolution describing the private property, declaring that the acquisition of the property is necessary for an improvement described in section 1 necessary for the use and benefit of the public, and designating the public improvement. The resolution shall direct that procedures to acquire the property be commenced under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75.

Sec. 3. If a verdict and judgment in an action under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, is rendered in favor of the village in the circuit court, then, after the verdict and judgment become final, unless the cause was discontinued, the village clerk shall procure copies of the judgment of the circuit court as well as of the verdict of the jury, and record them in a book of records kept by the village clerk. The book of records of the proceedings kept by the village clerk, or certified copies thereof, shall be admissible in evidence and have the same evidentiary effect as a copy of the order judgment or decree of the circuit court authenticated by the judge or clerk of the court under seal thereof, as provided in section 2106 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2106.

Sec. 4. (1) After the village clerk records the final judgment and verdict as provided in section 30 of this chapter, the proper and necessary proceedings may be taken by the council for the collection of the sum awarded by the jury.

(2) If the council believes that real estate in the village in the vicinity of the proposed improvement will be benefited by the improvement, the council may, by an entry in its minutes, determine that the whole or any just proportion of the compensation awarded by the jury, and of the costs and expenses incurred in connection with the proceedings, be assessed upon the owners or occupants of real estate determined to be benefited. The council shall, by resolution, fix and determine the district of the village benefited, and specify the amount to be assessed upon the owners or occupants of the benefited real estate. In determining the amount of such costs and expenses, the council may include all costs and expenses incurred or paid for jurors' fees, expenses of abstracts, all surveys and maps, and all other necessary expenses. The amount of the benefit thus ascertained shall be assessed upon the owners or occupants of the benefited real estate, in proportion, as nearly as may be, to the advantage which each such lot or parcel is deemed to acquire by the improvement.

(3) The assessment shall be made and the amount levied and collected in the same manner and by the same officers and proceedings, as near as may be, provided in sections 31 to 35 of chapter VIII. The assessment roll, when ratified and confirmed by the council, shall be final and conclusive and prima facie evidence of the regularity and legality of all

proceedings prior thereto, and each assessment shall be a lien on the premises on which it is assessed until the assessment is paid.

(4) Whatever amount or portion of such awarded compensation, costs, and expenses is not raised by special assessment shall be assessed, levied, and collected upon the taxable real estate of the village, the same as other general taxes are assessed and collected. The village may purchase assessed premises or any portion sold for nonpayment of the amount assessed.

(5) If there is on the private property taken a building or other structure, it may be sold by or under the direction of the council. The amount produced by the sale shall belong and be paid to the fund for paying the compensation awarded for the property taken, and the council shall cause such amount to be credited and applied in reduction pro rata of the assessment and apportionment made to pay for the property taken.

Sec. 5. This chapter does not prohibit a village from obtaining private property for a public use specified in section 1 of this chapter by negotiation and purchase. Further, this chapter does not permit a village to acquire property by condemnation that is located outside of the village limits.

CHAPTER XIV—MISCELLANEOUS.

Sec. 3. If, under this act, notice of any matter or proceeding is required to be published or posted, an affidavit or certificate of the publication or posting made by the clerk of the village, or by some other person in the employ of the village knowing the facts shall be prima facie evidence of the facts therein contained if filed with the village clerk within 6 months from the date of the last publication or posting of the notice.

Sec. 5. If in any other act the governing body of a village is described as the board of trustees, the trustees, or common council, it shall be construed to mean the body described in this act as the council.

Sec. 6a. The county board of commissioners shall not consider the petition of a village council for annexation or detachment of territory under section 6 of this chapter if the petition is presented during the pendency of a petition to disincorporate the village filed under section 18a of this chapter.

Sec. 7. Villages incorporated before February 19, 1895 under any general or special law of this state, are reincorporated under and made subject to this act, effective February 25, 1895. General or special laws under which those villages were incorporated are repealed effective February 25, 1895.

Sec. 18a. (1) To initiate the disincorporation of a village, there shall be filed with the village clerk a petition signed by not less than 15% of the registered electors of the village requesting a vote on the question of whether the village shall disincorporate.

(2) A petition shall designate the township or townships into which the village is proposed to be disincorporated. A village shall be disincorporated into the township or townships in which it is located, along existing township boundaries.

(3) After the petition is filed with the village clerk a petition affecting the village shall not be filed with the state boundary commission and a petition requesting disincorporation of the village into a different township shall not be filed under this act until the disincorporation process provided for by this act has concluded.

(4) By not more than 14 days after the petition is filed, the village clerk shall verify the signatures and determine the sufficiency of the petition. Unless the council proceeds under sections 23 to 23i of this chapter, if the clerk determines that the petition is sufficient, the question of the disincorporation of the village shall appear on the ballot at the next general or special election to be held in the village, subject to section 646a of the Michigan election law, 1954 PA 116, MCL 168.646a. The village clerk shall prepare the ballot language, in substantially the following form:

“Shall incorporation of the village of _____ be vacated?

() Yes

() No”.

(5) The county election commission of the county in which the greatest number of electors of the village reside shall provide ballots for the election.

(6) The clerk and election officials of the village and each township into which the village is proposed to be disincorporated shall conduct the election on the proposed disincorporation in the village and the portions of the township outside the boundaries of the village, respectively.

(7) If the election on the proposed disincorporation is to be held in conjunction with a general election or a state primary election immediately preceding a general election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the county in which the greatest

number of electors of the village reside shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(8) The results of the election on the proposed disincorporation shall be canvassed by the board of canvassers of the village and the board of canvassers of each township in which the village is located.

(9) The disincorporation of the village shall take place pursuant to this section only if 2/3 of the electors voting on the questions vote "yes". If the disincorporation is approved, the council shall immediately cause a transcript of all the proceedings in the case to be certified to both of the following:

- (a) The county clerk of the county in which the village or the principal part of the village is located.
- (b) The secretary of state.

Sec. 19. Upon receiving the transcript of the proceedings in submitting to a vote of the electors the question of vacating the incorporation of any village as provided in section 18a of this chapter, the county clerk shall submit the transcript to the county board of commissioners, which shall at its next regular annual meeting pass a resolution vacating the incorporation of the village.

Sec. 20. (1) Upon the vacation of the incorporation of any village under sections 18a and 19 of this chapter, the officers of the village shall immediately deposit all books, papers, records, and files relating to the organization of or belonging to the village that are in their custody as village officers with the county clerk of the county in which the village or the principal part of the village is located for safe keeping and reference. The indebtedness of the vacated village, whether bonded or otherwise, shall be assessed, levied, and collected upon the territory embraced within the boundaries of the village immediately prior to the vacation. The township board of the township or townships in which the territory formerly embraced within the limits of the vacated village shall levy upon the assessment roll or rolls of the township upon the property formerly embraced within the limits of the village, the indebtedness of the village, or such portion of the village that is apportioned to the part of the territory formerly constituting the village that lies within the township as provided in subsection (2). This levy shall be made not more than 1 year after the date that the village incorporation is vacated. However, if the indebtedness falls due at a specified time, an assessment shall be made that will satisfy the indebtedness when it falls due.

(2) The taxes assessed and levied under subsection (1) shall be collected the same as other taxes, and shall be placed in a separate fund and applied to the payment of such indebtedness. The manner of the payment of the indebtedness shall be fixed by resolution of the township board or boards described in subsection (1).

Sec. 21. (1) If the territory formerly embraced within a village vacated pursuant to sections 18a and 19 of this chapter consists of territory of 2 or more townships in the same county, the township boards shall apportion, among their townships, the amount of the indebtedness of the vacated village that each township shall bear.

(2) If a village vacated pursuant to sections 18a and 19 of this chapter was comprised of territory from 2 different counties, the county boards of commissioners of the 2 counties shall determine what portion of the indebtedness of the vacated village each county shall bear, using as a basis the last preceding assessment roll of the vacated village before its vacation. The indebtedness, when so apportioned, shall be assessed, levied, and collected as provided in section 20 of this chapter.

Sec. 23. Not later than the next meeting of council held after the clerk verifies the petition signatures and determines the sufficiency of the petition under section 18a of this chapter, the council may by resolution elect to proceed under this section and sections 23a to 23i of this chapter.

Sec. 23a. (1) A disincorporation commission shall be composed of 3 members representing each township into which the village is proposed to be disincorporated and a number of members representing the village equal to the number of members representing townships.

(2) The village president with approval of the village council, shall appoint the members representing the village. The township supervisor of a township, with approval of the township board, shall appoint the members representing the township.

(3) Disincorporation commission members may be village or township officials.

Sec. 23b. (1) An individual appointed to the disincorporation commission shall take the constitutional oath of office.

(2) A vacancy in the disincorporation commission is created in the manner provided in section 3 of 1846 RS 15, MCL 201.3.

(3) If a member of a disincorporation commission vacates office, the vacancy shall be filled by appointment in the same manner as provided in subsection (1).

Sec. 23c. (1) The president of the village shall appoint 1 of the village members as chairperson of the disincorporation commission.

(2) The village clerk shall call the first meeting of the disincorporation commission and shall serve as secretary of the commission and keep its minutes and records.

(3) At its first meeting, the disincorporation commission shall elect such other officers it considers advisable.

(4) The disincorporation commission shall adopt bylaws to govern the conduct of its business.

(5) A majority of the members of the disincorporation commission constitute a quorum for the transaction of business at a meeting of the commission. A majority of the members are required for official action of the disincorporation commission.

(6) The disincorporation commission shall conduct its business at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(7) A writing prepared, owned, used, in possession of, or retained by the disincorporation commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 23d. (1) The disincorporation commission may contract for such consultants and advisors as may be reasonably necessary in its discretion to carry out its responsibilities.

(2) The village council shall appropriate for the disincorporation commission sufficient funds for the commission to reasonably carry out its responsibilities.

(3) The disincorporation commission may accept any private or public funding.

Sec. 23e. (1) The disincorporation commission may adopt a disincorporation plan for the village. Adoption of a disincorporation plan requires the affirmative vote of 2/3 of the members representing the village and 2 of the members representing each township of the disincorporation commission.

(2) The disincorporation plan shall provide an orderly process for disincorporation of the village. The disincorporation plan shall include all of the following elements:

(a) An interim land use plan and interim zoning of the property within the limits of the village.

(b) Provision for payment of all indebtedness of the village, including any outstanding judgments, or judgments that may result from pending or future litigation to which the village may become a party.

(c) Disposition of real and personal property and other assets, including funds, deposits, and investments.

(d) Disposition of all public records of the village in accordance with a records retention plan as provided by law, including files, books, and papers.

(e) Transfer or termination of employees, and contracts of employment, and disposition of employee benefits, including retirement, health and life insurance, unemployment compensation, accrued sick and vacation leave, and any other benefits.

(f) Jurisdiction over streets, roads, bridges, alleys, sidewalks, and any public easements in the village, and for their maintenance and repair, including street lights and snow removal.

(g) Jurisdiction over traffic control and traffic control devices.

(h) Provision for any special assessments or special assessment districts within the village, including, but not limited to, street maintenance, street sweeping, and private road service.

(i) The transfer or termination of public utilities and public services of the village, including, but not limited to, water, sewer, drainage, cable television, street lighting, electric service, and garbage and refuse service.

(j) Regulation or orderly transfer of responsibility for any special districts, including, but not limited to, established historic districts, downtown development districts, tax increment financing districts, and land subject to any land transfer agreements.

(k) Provision for any authorities that the village has established or in which the village is a member.

(l) Findings as to the fiscal impact of dissolution upon the township or townships into which the village is proposed to be disincorporated and the residents of the village, including the estimated revenues gained by the township and losses to each municipality from property taxes and from state revenue sharing and from gas and weight tax revenues distributed by this state to the village and any township into which the village is proposed to be disincorporated.

(m) A process for the resolution of any dispute that may arise over the implementation of the plan, if adopted, and the procedure that a party to any such dispute may utilize for this process.

(3) The disincorporation commission may make findings as to the effect of disincorporation upon collateral matters including, but not limited to, property values, public service levels and costs, and local property tax rates.

Sec. 23f. A disincorporation plan adopted under section 23e shall be submitted to the council and to the township board of each affected township. The council and township board or boards may ratify the disincorporation plan. If the council and the township board of each affected township ratify the plan, the question of disincorporation pursuant to the plan shall be placed on the ballot pursuant to section 23g of this chapter. If the council or the township board of each affected township fails to ratify the disincorporation plan, the question of disincorporation shall be submitted to the electorate as described in section 18a of this chapter not more than 1 year after the date the disincorporation was filed under section 18a of this chapter.

Sec. 23g. (1) If the disincorporation plan is approved pursuant to section 23f of this chapter, the clerk of the disincorporation commission shall prepare and certify to the county clerk of each county where the village is located ballot language describing the proposed disincorporation and that includes the following in substantially the following form:

“Shall the village of _____ be disincorporated pursuant to the plan adopted by the disincorporation commission?

() Yes

() No”.

(2) The clerk of the disincorporation commission shall certify the proposed disincorporation for inclusion on the ballot at the next general election, the state primary immediately preceding the general election, or a special election not occurring within 45 days of a state primary or a general election, as specified by the clerk of the disincorporation commission. However, the clerk of the disincorporation commission shall not certify the proposed disincorporation for inclusion on the ballot at either of the following:

(a) An election to be held less than 60 days after the date of certification.

(b) An election to be held more than 1 year after the village clerk verifies the petition signatures and determines that the petition is sufficient under section 18a of this chapter.

(3) If a special election is requested by the clerk of the disincorporation commission, the county clerk of the county in which the greatest number of electors of the village reside shall request approval of a special election date from the county election scheduling committee of that clerk’s county. The proposal shall be submitted to the qualified and registered electors residing in the village and each township into which the village is proposed to be disincorporated on the date approved by that county election scheduling committee.

(4) If a disincorporation commission fails to adopt a plan under section 23e of this chapter or the clerk of the disincorporation commission does not certify the proposed disincorporation for inclusion on the ballot pursuant to this section, the question of disincorporation shall be submitted to the electors as described in section 18a of this chapter not more than 1 year after the date the disincorporation petition was filed under section 18a of this chapter.

Sec. 23h. (1) The proposed disincorporation is approved by the electors and shall take place pursuant to the plan adopted under section 23e of this chapter only if a majority of each of the following votes cast on the question of the proposed disincorporation are in favor of the disincorporation:

(a) The votes cast by electors of the village.

(b) The votes cast by the electors of each township into which the village is proposed to be disincorporated, counted separately, and excluding votes cast by residents of the village.

(2) Unless the proposed disincorporation is approved as provided in subsection (1), the proposed disincorporation pursuant to a plan adopted under section 23e of this chapter is disapproved by the electors and the village shall not be disincorporated pursuant to the plan.

Sec. 23i. A new petition shall not be filed under section 18a of this chapter less than 2 years after the election if the disincorporation is disapproved by the electors at an election held pursuant to section 18a or 23g of this chapter.

Sec. 24. A village incorporated under this act may locally modify this act by complying with the provisions governing the amendment of a charter under the home rule village act, 1909 PA 278, MCL 78.1 to 78.28.

Enacting section 1. The following sections of the general law village act, 1895 PA 3, are repealed:

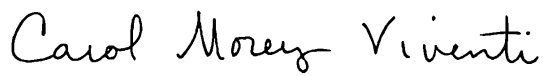
<u>Section Numbers</u>	<u>Chapter Number</u>	<u>Michigan Compiled Laws Section Number</u>
22a	IX	69.22a
5, 7, and 8	X	70.5, 70.7, and 70.8
2	XII	72.2
6 to 36	XIII	73.6 to 73.36
9, 11, 13, and 15	XIV	74.9, 74.11, 74.13, and 74.15

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5438 is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved -----

Governor.