

HOUSE BILL No. 4827

June 10, 2003, Introduced by Reps. Brown, Hummel, Farhat, Brandenburg, Garfield, Drolet, Hoogendyk, Amos, Casperson, Emmons, Wenke, Tabor, Palsrok, Sheen, Stahl, Vander Veen, Acciavatti, LaJoy, Steil, Walker, Pastor, Stakoe, Meyer, Voorhees, Taub, Ward, Ruth Johnson, Rocca, Kooiman, Robertson, Moolenaar and Richardville and referred to the Committee on Local Government and Urban Policy.

A bill to amend 1895 PA 3, entitled

"The general law village act,"

by amending sections 1, 3, 4, 5, 6, and 13 of chapter II, sections 1, 2, 3, and 7 of chapter III, section 3 of chapter V, section 23 of chapter IX, section 3 of chapter XII, and sections 18a and 23g of chapter XIV (MCL 62.1, 62.3, 62.4, 62.5, 62.6, 62.13, 63.1, 63.2, 63.3, 63.7, 65.3, 69.23, 72.3, 74.18a, and 74.23g), sections 1, 4, 5, 6, and 13 of chapter II, sections 2 and 7 of chapter III, and section 3 of chapter V as amended and section 3 of chapter III as added by 1998 PA 255 and section 3 of chapter XII and section 18a of chapter XIV as amended and section 23g of chapter XIV as added by 1998 PA 254.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER II

Sec. 1. (1) Except as provided in subsections (2) and (3),

1 in each village, the following officers shall be elected: a
2 president, 6 trustees, 1 clerk, and 1 treasurer. The president
3 and trustees constitute the council. In all votes for which not
4 less than a majority vote of **the** council is required, the
5 calculation of the number of votes required shall be based on the
6 maximum number that constitutes **the** council.

7 (2) The council by a vote of 2/3 of the members of **the**
8 council may provide by ordinance for the reduction in the number
9 of trustees to 4 who with the president shall constitute the
10 council. If village trustees are elected biennially for
11 staggered 4-year terms or annually for staggered 2-year terms,
12 the ordinance shall as nearly as possible maintain staggered
13 terms and provide for an equal number of seats to be filled at
14 each election. The ordinance may extend but shall not shorten
15 the term of an incumbent trustee. The ordinance may extend a
16 prospective term. The ordinance shall not shorten or eliminate a
17 prospective term unless the nomination deadline for that term is
18 not less than 30 days after the effective date of the ordinance.
19 An ordinance adopted under this subsection shall satisfy both of
20 the following conditions:

21 (a) The ordinance shall be voted on and adopted at a meeting
22 that occurs not less than 10 days after the initial meeting or
23 public hearing at which the ordinance was considered.

24 (b) Notice of each meeting at which the ordinance is
25 considered indicating that an ordinance reducing the size of the
26 council will be 1 of the subjects of the meeting shall be
27 published not less than 10 days before the meeting in a newspaper

1 of general circulation in the village.

2 (3) The council by a vote of 2/3 of the members of **the**
3 council may provide by ordinance for the nomination by the
4 president and the appointment by the council of the clerk or the
5 treasurer, or both, for ~~such~~ a term as the ordinance may
6 provide. The ordinance shall apply beginning with the first term
7 the nomination deadline for which would have been not less than
8 30 days after the effective date of the ordinance or shall apply
9 when the office is vacated, whichever occurs first.

10 (4) The council shall provide that an ordinance adopted under
11 subsection (2) or (3) takes effect 45 days after the date of
12 adoption unless a petition signed by not less than 10% of the
13 registered electors of the village is filed with the village
14 clerk within the 45-day period, in which case the ordinance takes
15 effect upon approval at an election held on the question. Notice
16 of the delayed effect of the ordinance and the right of petition
17 under this subsection shall be published separately at the same
18 time, and in the same manner, as the ordinance is published
19 ~~pursuant to~~ **as provided in** section 4 of chapter VI. The
20 village clerk shall verify the signatures on the petitions. If a
21 petition bearing the required number of valid signatures of
22 electors is filed, the question of adoption of the ordinance
23 shall be submitted at the next general or special election. The
24 ballot language for the question shall be prepared by the village
25 clerk, unless the question concerns the appointment of the clerk
26 under subsection ~~-(2)-~~ **(3)**, in which case the ballot language
27 shall be prepared by the village council.

1 (5) A village that has adopted an ordinance reducing the
 2 number of trustees to 4 or providing for the appointment by the
 3 council of the clerk or treasurer may increase the number of
 4 trustees to 6 or provide for the election of the clerk or
 5 treasurer by the same process as provided in subsection (2) or
 6 (3), respectively, and in subsection (4).

7 Sec. 3. ~~Appointments to office, excepting appointments to~~
 8 ~~fill vacancies, shall be made on the second Monday in April in~~
 9 ~~each year, Except for an appointment to fill a vacancy or unless~~
 10 a different time ~~shall be~~ **is** prescribed in the ordinance or
 11 resolution creating the office, ~~;~~ ~~but appointments which, for~~
 12 ~~any cause, shall not be made on that day, an appointment to a~~
 13 **village office shall be made at the first village council meeting**
 14 **after the qualification of a council member who is elected at the**
 15 **village's regular election. If, for any cause, an appointment is**
 16 **not made at that meeting or on the day** ~~provided~~ **prescribed** in
 17 the ordinance or resolution creating the office, **the appointment**
 18 **may be made at** ~~any~~ **a subsequent regular or special meeting of**
 19 **the council.**

20 Sec. 4. Unless otherwise provided by ordinance, the
 21 president, clerk, and treasurer ~~shall~~ hold their respective
 22 offices for the term of 2 years ~~from the second Monday of March~~
 23 ~~of the year when elected~~ and until their successors are elected
 24 and qualified. **The term of office for a president, clerk, or**
 25 **treasurer elected at the village's regular election begins on 1**
 26 **of the following dates:**

27 (a) If the regular election is held on the November regular

1 election date, January 1 after the officer's election and
2 qualification.

3 (b) If the regular election is held on the May regular
4 election date, July 1 after the officer's election and
5 qualification.

6 Sec. 5. ~~(1)~~ Except as otherwise provided in this section,
7 3 village trustees shall be elected at each biennial village
8 election for the term of 4 years ~~from the second Monday in March~~
9 ~~of the even numbered year when elected~~ and until their
10 successors are qualified. As an alternative, if provided by an
11 ordinance adopted by the village before January 1, 1974, all 6
12 village trustees shall be elected at the biennial village
13 elections for the term of 2 years and until their successors are
14 qualified. The term of office for a trustee elected at the
15 village's regular election begins on 1 of the following dates:

16 (a) If the regular election is held on the November regular
17 election date, January 1 after the officer's election and
18 qualification.

19 (b) If the regular election is held on the May regular
20 election date, July 1 after the officer's election and
21 qualification.

22 ~~(2) If a village exempted itself from subsection (1) by~~
23 ~~council resolution adopted before January 1, 1974, the village~~
24 ~~shall continue to elect its trustees annually on the second~~
25 ~~Monday in March with 3 trustees to be elected annually. The~~
26 ~~trustees shall hold their offices for the term of 2 years and~~
27 ~~until their successors are qualified.~~

1 ~~—— (3) A village that exempted itself as described in subsection~~
 2 ~~(2) may subsequently provide by ordinance that the village shall~~
 3 ~~elect trustees biennially. The ordinance shall be applicable to~~
 4 ~~the even year village election to be held not less than 6 months~~
 5 ~~next following the adoption of the ordinance. The ordinance~~
 6 ~~shall provide for a system of electing trustees as described in~~
 7 ~~subsection (1). The ordinance may extend the terms of incumbent~~
 8 ~~trustees for not more than 1 year if necessary to provide for the~~
 9 ~~biennial election of trustees. In any event, a trustee shall~~
 10 ~~serve until his or her successor is qualified.~~

11 ~~—— (4) A copy of each resolution and ordinance adopted pursuant~~
 12 ~~to this section shall be forwarded to the director of the bureau~~
 13 ~~of elections of the department of state.~~

14 Sec. 6. ~~All appointive officers, except officers appointed~~
 15 ~~to fill vacancies in elective offices, shall hold their~~
 16 ~~respective offices until the second Monday of April next after~~
 17 ~~such appointment, and until their successors are~~ **Except for an**
 18 **officer appointed to fill a vacancy in an elective office, an**
 19 **appointive village officer holds the office for 1 year after the**
 20 **date of the appointment or until the village's next regular**
 21 **election, whichever is earlier, and until the officer's successor**
 22 **is appointed and** qualified unless a different term of office is
 23 prescribed in this act, in an ordinance authorized by this act,
 24 or in the ordinance or resolution creating the office. An
 25 officer appointed to fill a vacancy in an elective office shall
 26 hold office until the next regular village election, and until
 27 his or her successor is elected and qualified. An officer

1 appointed to fill a vacancy in an appointive office shall hold
2 office until his or her successor is appointed and qualified.

3 Sec. 13. ~~Any~~ A vacancy occurring in the office of
4 president, trustee, or any other elective office shall be filled
5 by appointment by the council, and the appointee shall hold
6 office until the next regular village election. All vacancies in
7 any other office shall be filled by the president, by and with
8 the consent of the council. If by reason of removal, death,
9 resignation, or otherwise, the membership of the council is
10 reduced to less than a quorum, the remaining council members
11 shall call a special election for the purpose of filling all
12 vacancies in the office of trustee, if a petition signed by not
13 less than 10% of the qualified voters of the village is filed
14 with the village clerk within 10 days after the vacancy or
15 vacancies occur. If a petition is not filed within the time
16 stated, then the remaining council members may either call a
17 special election, or may ~~proceed to~~ appoint a sufficient number
18 of trustees to constitute with the members in office a quorum of
19 the council, who shall then fill the remaining vacancies as
20 provided in this section. If all the officers and trustees of a
21 village have died or ~~removed~~ moved from the village, and no
22 successors have been elected or appointed to fill the vacancies,
23 the township clerk of the township within which the village is
24 situated shall, upon petition of 10% of the qualified voters
25 residing in the village, call a special election for the election
26 of the officers and trustees of the village ~~—, at a date and~~
27 ~~place to be fixed by the township clerk, which date shall be not~~

1 ~~more than 30 days after the receipt of the petition. The~~
 2 ~~township board of the~~ **to be held on a a regular election date as**
 3 **established under section 641 of the Michigan election law, 1954**
 4 **PA 116, MCL 168.641. The** township shall perform all of the other
 5 duties with respect to the election as the village might have
 6 done had the vacancies not existed, including the preparation of
 7 ballots, the appointment of election inspectors, the counting and
 8 canvassing of the ballots, and the certification of the persons
 9 elected to the offices for which the election was held. All of
 10 the expenses of the election shall be ~~a charge upon~~ **paid by** the
 11 village.

12 CHAPTER III

13 Sec. 1. **(1)** ~~Except with regard to villages that hold~~
 14 ~~annual elections pursuant to section 5(2) of chapter 2, the~~
 15 ~~election of officers shall be held biennially on the second~~
 16 ~~Monday in March in each even numbered year.~~ An election **under**
 17 **this act** shall be held at ~~such~~ a place in the village as the
 18 council ~~shall designate~~ **designates.**

19 **(2)** Notwithstanding a charter provision or ordinance
 20 providing otherwise, the day on which a village holds its regular
 21 or a special election is governed by the Michigan election law,
 22 1954 PA 116, MCL 168.1 to 168.992, or by a resolution adopted in
 23 compliance with section 642 of the Michigan election law, 1954
 24 PA 116, MCL 168.642.

25 Sec. 2. Special elections may be called by resolution of
 26 the council. The resolution shall state the purpose and object
 27 of and, subject to ~~the election laws of this state~~ **section 1 of**

1 this chapter, the date of the election.

2 Sec. 3. ~~—(1) Except as provided in this section, village~~
3 ~~elections shall be partisan. The council by a vote of 2/3 of the~~
4 ~~members of council may provide by ordinance that~~ **Notwithstanding**
5 **a charter provision or ordinance to the contrary,** village
6 elections shall be nonpartisan. ~~—The ordinance shall apply~~
7 ~~beginning with the first village election for which the~~
8 ~~nomination deadline is not less than 30 days after the effective~~
9 ~~date of the ordinance.~~

10 ~~—— (2) The council shall provide that an ordinance adopted under~~
11 ~~subsection (1) takes effect 45 days after the date of adoption~~
12 ~~unless a petition signed by not less than 10% of the registered~~
13 ~~electors of the village is filed with the village clerk within~~
14 ~~the 45-day period, in which case the ordinance takes effect upon~~
15 ~~approval at an election held on the question. Notice of the~~
16 ~~delayed effect of the ordinance and the right of petition under~~
17 ~~this subsection shall be published separately at the same time,~~
18 ~~and in the same manner, as the ordinance is published pursuant to~~
19 ~~section 4 of chapter VI. The village clerk shall verify the~~
20 ~~signatures on the petitions. If a petition bearing the required~~
21 ~~number of valid signatures of electors is filed, the question of~~
22 ~~adoption of the ordinance shall be submitted at the next general~~
23 ~~or special election. The ballot language for the question shall~~
24 ~~be prepared by the village clerk.~~

25 ~~—— (3) A village that has adopted an ordinance providing for~~
26 ~~nonpartisan elections may revert to partisan elections by the~~
27 ~~same process as provided in subsections (1) and (2).~~

9 Sec. 3. **(1)** On ~~the second Monday in April in~~ **1 of the**
10 **following dates** each year, or as soon ~~thereafter~~ **after that**
11 **date** as possible, the council shall appoint 1 of their number
12 president pro tempore of the council: ~~, who in~~

13 (a) If the village's regular election is held on the November
14 regular election date, each January 1.

15 (b) If the village's regular election is held on the May
16 regular election date, each July 1.

17 (2) In the absence of the president, ~~shall preside~~ the
18 **president pro tempore presides** at the council meetings, and
19 ~~exercise~~ **exercises** the powers and duties of president. In the
20 absence of the president and president pro tempore, the member
21 with the longest current period of continuous service on the
22 council ~~shall preside~~ **presides** unless otherwise provided by
23 council rules.

~~Sec. 23. (1) Bonds may not be issued, except special assessment bonds, bonds for the portion of the cost of local improvements to be paid by the village at large not to exceed 40%~~

1 ~~of the cost of such improvements, emergency bonds, and bonds~~
 2 ~~which the council is authorized by specific statute to issue~~
 3 ~~without vote of the electors, unless~~ **Subject to subsection (2),**
 4 **a village shall not issue bonds unless the issuance is approved**
 5 **by a majority of the electors voting ~~thereon~~ on the bond**
 6 **issuance at ~~an annual~~ a regular or special village election.**
 7 **The election shall be conducted in accordance with the ~~general~~**
 8 **~~laws governing the conduct of elections. This section~~ Michigan**
 9 **election law, 1954 PA 116, MCL 168.1 to 168.992.**

10 **(2) Subsection (1) does not apply to ~~obligations~~ any of the**
 11 **following:**

12 **(a) Obligations** incurred by the village evidenced by
 13 contracts, notes, or assessments.

14 **(b) Special assessment bonds.**

15 **(c) Bonds for the portion of the cost of local improvements**
 16 **to be paid by the village at large not to exceed 40% of the cost**
 17 **of the improvements.**

18 **(d) Emergency bonds.**

19 **(e) Bonds that the council is authorized by specific statute**
 20 **to issue without a vote of the electors.**

21 CHAPTER XII

22 **Sec. 3. (1)** To exercise the powers granted by section 1 of
 23 this chapter, the council shall adopt a resolution declaring that
 24 it is expedient for ~~such~~ **the** village to acquire by purchase or
 25 construction, as applicable, works to supply the village with
 26 electric or other lights, and shall make and record in their
 27 proceedings an estimate of the expense.

1 (2) The question of financing the estimated amount or that
2 part of the estimated amount not in excess of limitations on
3 indebtedness of the village provided by law shall be submitted to
4 the electors of the village at its ~~annual~~ **regular** election, or
5 at a special election called for that purpose by the council as
6 provided in this act. Approval of the proposal requires the
7 affirmative vote of 2/3 of the electors voting at ~~such~~ **the**
8 election by ballot.

9 (3) If the voters approve financing a part of the estimated
10 amount not in excess of the limitations on indebtedness of the
11 village, the council shall not incur any indebtedness for
12 lighting works on the general faith and credit of the village
13 until the charter is amended to permit the issuance of mortgage
14 bonds on the proposed lighting plant, its revenues and franchise,
15 in excess of the general limitations on indebtedness as provided
16 by this act, in an amount equal to the difference between the
17 indebtedness authorized by this act, and the estimated amount.

18 CHAPTER XIV

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

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

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

7 (4) By not more than 14 days after the petition is filed, the
 8 village clerk shall verify the signatures and determine the
 9 sufficiency of the petition. Unless the council proceeds under
 10 sections 23 to 23i of this chapter, if the clerk determines that
 11 the petition is sufficient, the question of the disincorporation
 12 of the village shall appear on the ballot at the next general or
 13 special election to be held in the village, subject to ~~section~~
 14 ~~646a of~~ the Michigan election law, 1954 PA 116, MCL ~~168.646a~~
 15 **168.1 to 168.992**. The village clerk shall prepare the ballot
 16 language, in substantially the following form:

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

19 () Yes

20 () No".

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

24 (6) The clerk and election officials of the village and each
 25 township into which the village is proposed to be disincorporated
 26 shall conduct the election on the proposed disincorporation in
 27 the village and the portions of the township outside the

1 boundaries of the village, respectively.

2 (7) If the election on the proposed disincorporation is to be
3 held in conjunction with a general election or a state primary
4 election immediately ~~preceding~~ **before** a general election, the
5 notices of close of registration and election shall be published
6 as provided for by the state election laws. Otherwise, the
7 county clerk of the county in which the greatest number of
8 electors of the village reside shall publish the notices of close
9 of registration and election. The notice of close of
10 registration shall include the ballot language of the proposal.

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

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

21 (a) The county clerk of the county in which the village or
22 the principal part of the village is located.

23 (b) The secretary of state.

24 Sec. 23g. (1) If the disincorporation plan is approved
25 ~~pursuant to~~ **under** section 23f of this chapter, the clerk of the
26 disincorporation commission shall prepare and certify to the
27 county clerk of each county where the village is located ballot

1 language describing the proposed disincorporation and that
 2 includes the following in substantially the following form:

3 "Shall the village of _____ be disincorporated
 4 pursuant to the plan adopted by the disincorporation commission?

5 () Yes

6 () No".

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

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

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

21 (3) If a special election is requested by the clerk of the
 22 disincorporation commission, the county clerk of the county in
 23 which the greatest number of electors of the village reside shall
 24 ~~request approval of a special election date from the county~~
 25 ~~election scheduling committee of that clerk's county~~ **schedule**
 26 **the election in compliance with section 641 of the Michigan**
 27 **election law, 1954 PA 116, MCL 168.641.** The proposal shall be

1 submitted to the qualified and registered electors residing in
2 the village and each township into which the village is proposed
3 to be disincorporated ~~on the date approved by that county~~
4 ~~election scheduling committee~~ **at that election.**

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

13 Enacting section 1. This amendatory act takes effect
14 January 1, 2005.

15 Enacting section 2. This amendatory act does not take
16 effect unless all of the following bills of the 92nd Legislature
17 are enacted into law:

18 (a) Senate Bill No. _____ or House Bill No. 4821 (request
19 no. 01919'03 *).

20 (b) Senate Bill No. _____ or House Bill No. 4824 (request
21 no. 01920'03 *).