

Act No. 305
Public Acts of 2003
Approved by the Governor
January 8, 2004
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EFFECTIVE DATE: January 1, 2005

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 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

ENROLLED HOUSE BILL No. 4827

AN ACT to amend 1895 PA 3, entitled "An act to provide for the government of certain 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 subject to this act; to define the powers and duties of certain state and local officers and entities; to define the application of this act and provide for its amendment by villages subject to this act; to validate prior amendments and certain prior actions taken and bonds issued by villages subject to this act; to provide for the disincorporation of villages; and to prescribe penalties and provide remedies," 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), in each village, the following officers shall be elected: a president, 6 trustees, 1 clerk, and 1 treasurer. The president and trustees constitute the council. In all votes for which not less than a majority vote of the council is required, the calculation of the number of votes required shall be based on the maximum number that constitutes the council.

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

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

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

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

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

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

Sec. 3. Except for an appointment to fill a vacancy or unless a different time is prescribed in the ordinance or resolution creating the office, an appointment to a village office shall be made at the first village council meeting after the qualification of a council member who is elected at the village's regular election. If, for any cause, an appointment is not made at that meeting or on the day prescribed in the ordinance or resolution creating the office, the appointment may be made at a subsequent regular or special meeting of the council.

Sec. 4. Unless otherwise provided by ordinance, the president, clerk, and treasurer hold their respective offices for the term of 2 years and until their successors are elected and qualified. The term of office for a president, clerk, or treasurer elected at the village's regular election begins on 1 of the following dates:

(a) If the regular election is held at the general election, November 20 after the officer's election and qualification.

(b) If the regular election is held at the September primary election, October 1 after the officer's election and qualification.

Sec. 5. Except as otherwise provided in this section, 3 village trustees shall be elected at each biennial village election for the term of 4 years and until their successors are qualified. As an alternative, if provided by an ordinance adopted by the village before January 1, 1974, all 6 village trustees shall be elected at the biennial village elections for the term of 2 years and until their successors are qualified. The term of office for a trustee elected at the village's regular election begins on 1 of the following dates:

(a) If the regular election is held at the general election, November 20 after the officer's election and qualification.

(b) If the regular election is held at the September primary election, October 1 after the officer's election and qualification.

Sec. 6. Except for an officer appointed to fill a vacancy in an elective office, an appointive village officer holds the office for 2 years after the date of the appointment or until the village's next regular election, whichever is earlier, and until the officer's successor is appointed and qualified unless a different term of office is prescribed in this act, in an ordinance authorized by this act, or in the ordinance or resolution creating the office. An officer appointed to fill a vacancy in an elective office shall hold office until the next regular village election, and until his or her successor is elected and qualified. An officer appointed to fill a vacancy in an appointive office shall hold office until his or her successor is appointed and qualified.

Sec. 13. A vacancy occurring in the office of president, trustee, or any other elective office shall be filled by appointment by the council, and the appointee shall hold office until the next regular village election. All vacancies in any other office shall be filled by the president, by and with the consent of the council. If by reason of removal, death, resignation, or otherwise, the membership of the council is reduced to less than a quorum, the remaining council members shall call a special election for the purpose of filling all vacancies in the office of trustee, if a petition signed by not less than 10% of the qualified voters of the village is filed with the village clerk within 10 days after the vacancy or vacancies occur. If a petition is not filed within the time stated, then the remaining council members may either call a special election, or may appoint a sufficient number of trustees to constitute with the members in office a quorum of the council, who shall then fill the remaining vacancies as provided in this section. If all the officers and trustees of a village have died or moved from the village, and no successors have been elected or appointed to fill the vacancies, the township clerk of the township within which the village is situated shall, upon petition of 10% of the qualified voters

residing in the village, call a special election for the election of the officers and trustees of the village to be held on a regular election date as established under section 641 of the Michigan election law, 1954 PA 116, MCL 168.641. The township shall perform all of the other duties with respect to the election as the village might have done had the vacancies not existed, including the preparation of ballots, the appointment of election inspectors, the counting and canvassing of the ballots, and the certification of the persons elected to the offices for which the election was held. The expenses of the election shall be paid by the village as provided in section 642 of the Michigan election law, 1954 PA 116, MCL 168.642.

CHAPTER III

Sec. 1. (1) An election under this act shall be held at a place in the village as the council designates.

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

Sec. 2. Special elections may be called by resolution of the council. The resolution shall state the purpose and object of and, subject to section 1 of this chapter, the date of the election.

Sec. 3. Notwithstanding a charter provision or ordinance to the contrary, village elections shall be nonpartisan.

Sec. 7. (1) All elections in the village shall be conducted as nearly as may be in the manner provided by the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, for holding general elections in the state, except as provided in this act.

(2) If at any election vacancies are to be filled, or if any person is to be elected for less than a full term of office, the term shall be designated on the ballot.

CHAPTER V

Sec. 3. (1) On 1 of the following dates each year, or as soon after that date as possible, the council shall appoint 1 of their number president pro tempore of the council:

(a) If the village's regular election is held at the general election, each November 20.

(b) If the village's regular election is held at the September primary election, each October 1.

(2) In the absence of the president, the president pro tempore presides at the council meetings, and exercises the powers and duties of president. In the absence of the president and president pro tempore, the member with the longest current period of continuous service on the council presides unless otherwise provided by council rules.

CHAPTER IX

Sec. 23. (1) Subject to subsection (2), a village shall not issue bonds unless the issuance is approved by a majority of the electors voting on the bond issuance at a regular or special village election. The election shall be conducted in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(2) Subsection (1) does not apply to any of the following:

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

(b) Special assessment bonds.

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

(d) Emergency bonds.

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

(3) The expenses of the election shall be paid by the village as provided in section 642 of the Michigan election law, 1954 PA 116, MCL 168.642.

CHAPTER XII

Sec. 3. (1) To exercise the powers granted by section 1 of this chapter, the council shall adopt a resolution declaring that it is expedient for the 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.

(2) 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 regular 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 the election by ballot.

(3) 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.

CHAPTER XIV

Sec. 18a. (1) To initiate the disincorporation of a village, 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 shall be filed with the township clerk.

(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 township 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 township 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 the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The township 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 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 before 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 under 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. 23g. (1) If the disincorporation plan is approved under 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

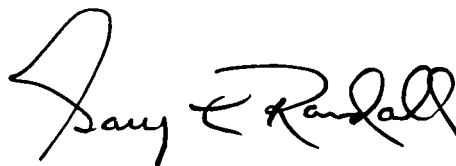
commission. However, the clerk of the disincorporation commission shall not certify the proposed disincorporation for inclusion on the ballot at either of the following:

- (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 township 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 schedule the election in compliance with section 641 of the Michigan election law, 1954 PA 116, MCL 168.641. 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 at that election.
- (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 under 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.

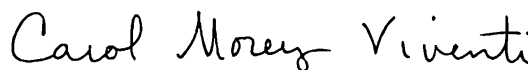
Enacting section 1. This amendatory act takes effect January 1, 2005.

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

- (a) Senate Bill No. 877.
- (b) House Bill No. 4820.
- (c) House Bill No. 4822.
- (d) House Bill No. 4823.
- (e) House Bill No. 4824.
- (f) House Bill No. 4825.
- (g) House Bill No. 4826.
- (h) House Bill No. 4828.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor