

**SUBSTITUTE FOR
HOUSE BILL NO. 5145**

A bill to amend 1895 PA 215, entitled
"The fourth class city act,"
by amending the title, section 3 of chapter I, sections 11 and 13
of chapter XXVIII, and section 1 of chapter XXXIII (MCL 81.3,
108.11, 108.13, and 113.1), the title as amended by 1983 PA 45,
and by adding section 11 to chapter VI.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide for the incorporation of cities of the
3 fourth class; to provide for the vacation of the incorporation
4 thereof; to define the powers and duties of such cities and the
5 powers and duties of the municipal finance commission or its suc-
6 cessor agency and of the department of treasury with regard
7 thereto; to provide for the levy and collection of taxes,

1 borrowing of money, and issuance of bonds and other evidences of
2 indebtedness by cities; to define the application of this act and
3 provide for its amendment by cities subject thereto; ~~—, and~~ to
4 validate such prior amendments and certain prior actions taken
5 and bonds issued by such cities; AND TO PRESCRIBE PENALTIES AND
6 PROVIDE REMEDIES.

7 CHAPTER I

8 Sec. 3. Any 100 or more ~~—freeholders—~~ REGISTERED ELECTORS
9 residing within ~~—any such—~~ A village may present to the VILLAGE
10 council ~~—thereof—~~ a petition setting forth the population of the
11 village as shown by ~~—such—~~ THE census, and asking that ~~—such—~~ THE
12 village be incorporated as a city of the fourth class. ~~—; and if—~~
13 IF the VILLAGE council ~~—shall be—~~ IS satisfied that the village
14 contains the ~~—requisite—~~ population ~~—, as provided—~~ REQUIRED in
15 section 2 of this ~~—act—~~ CHAPTER, ~~—they—~~ THE VILLAGE COUNCIL shall
16 by resolution to be entered upon the record of their proceedings,
17 reciting the presentation of ~~—said—~~ THE petition and the object
18 ~~—thereof—~~ OF THE PETITION, and that the village contains the req-
19 uisite population, submit the question as to whether the village
20 shall be incorporated as a city of the fourth class to a vote of
21 the electors of the village at the next annual village election.

22 CHAPTER VI

23 SEC. 11. A PETITION UNDER SECTION 3 OF CHAPTER I, SECTION
24 40 OF CHAPTER VII, SECTION 11 OR 13 OF CHAPTER XXVIII, OR SECTION
25 1 OF CHAPTER XXXIII, INCLUDING THE CIRCULATION AND SIGNING OF THE
26 PETITION, IS SUBJECT TO SECTION 488 OF THE MICHIGAN ELECTION LAW,
27 1954 PA 116, MCL 168.488. A PERSON WHO VIOLATES A PROVISION OF

1 THE MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.1 TO 168.992,
2 APPLICABLE TO A PETITION DESCRIBED IN THIS SECTION IS SUBJECT TO
3 THE PENALTIES PRESCRIBED FOR THAT VIOLATION IN THE MICHIGAN ELEC-
4 TION LAW, 1954 PA 116, MCL 168.1 TO 168.992.

5 CHAPTER XXVIII

6 Sec. 11. The council of every city subject to the provi-
7 sions of this act and the acts to which this act is amendatory,
8 upon petition to them of 50 or more ~~freeholders~~ REGISTERED
9 ELECTORS of ~~such~~ THE city praying that an election of the qual-
10 ified voters of ~~such~~ THE city be called to determine whether
11 the board of public works in ~~such~~ THE city shall be abolished,
12 shall, by resolution, submit the question of abolishing ~~such~~
13 THE board of public works to the qualified electors of ~~such~~ THE
14 city at the city election held in the month of April next
15 following. The board of public works in ~~such~~ THE city shall
16 not be abolished unless a majority of the electors voting on
17 ~~such~~ THE proposition shall by ballot so determine.

18 Sec. 13. In ~~any~~ A city subject to ~~the provisions of~~
19 this act, and in which the board of public works has been abol-
20 ished as ~~above~~ provided IN THIS CHAPTER, the council, on peti-
21 tion to them of 100 ~~freeholders~~ REGISTERED ELECTORS of ~~said~~
22 THE city praying for the re-establishment of the board of public
23 works ~~therein~~ IN THE CITY, shall, by resolution, submit to the
24 qualified electors of ~~such~~ THE city at the city election held
25 in the month of April next following the proposition to
26 re-establish ~~such~~ THE board of public works. If 2/3 of the
27 electors voting on ~~such~~ THE proposition vote in favor of ~~such~~

1 THE board of public works, then ~~such~~ THE board of public works
2 ~~shall thereafter be~~ IS re-established in ~~such~~ THE city and
3 shall be constituted and selected in the same way and have the
4 same qualifications, powers, and duties provided for boards of
5 public works in the act of which this act is amendatory.

6

CHAPTER XXXIII

7 Sec. 1. All cities heretofore incorporated under any gen-
8 eral or special law of this state, and having a population of
9 10,000 or less, according to the last preceding census, are
10 hereby reincorporated under and made subject to the provisions of
11 this act, as cities of the fourth class, such reincorporation to
12 take effect on the first day of January, in the year of our Lord
13 1896, and all acts by virtue of which such cities have been
14 incorporated are hereby repealed from and after the said first
15 day of January, in the year of our Lord 1896, except as hereinaf-
16 ter in this section provided. ~~:- Provided however, That~~
17 ~~whenever~~ HOWEVER, IF 50 or more of the qualified voters of any
18 city ~~hereinbefore~~ described IN THIS SECTION as a city of the
19 fourth class, which CITY has been incorporated under a special
20 act of the legislature, shall file with the CITY council,
21 ~~thereof~~ on or before the first day of November, in the year of
22 our Lord 1895, a petition praying that an election of the quali-
23 fied voters of such city be called to determine the question as
24 to whether such city shall remain incorporated under the special
25 act under which it was incorporated and by which it is governed
26 at the time of the filing of ~~such~~ THE petition, or whether it
27 shall become subject to the provisions of this act, thereupon it

1 shall be the duty of ~~such~~ THE CITY council, within 10 days
2 after the filing of ~~such~~ THE petition, to call a special elec-
3 tion of the qualified voters of ~~such~~ THE city to determine
4 ~~such~~ THE question. If a majority of all the votes cast at
5 ~~such~~ THE election are in favor of remaining incorporated under
6 ~~such~~ THE special act by which ~~such~~ THE city is governed at
7 the time of the filing of ~~such~~ THE petition, then ~~such~~ THE
8 city shall not be reincorporated under the provisions of this
9 act, but shall remain incorporated under ~~such~~ THE special act,
10 which shall remain in full force and effect as if this law had
11 not been enacted. ~~:- Provided further, That any~~ HOWEVER, IF A
12 city of this state, when the population ~~thereof~~ OF THE CITY is
13 10,000 or less, according to the last preceding state census even
14 though the voters of ~~said~~ THE city ~~have theretofore~~
15 PREVIOUSLY elected to remain incorporated under the special act
16 governing ~~such~~ THE city, may ~~at any time thereafter~~ be incor-
17 porated under and made subject to the provisions of this act and
18 the act of which this act is amendatory, as a city of the fourth
19 class as ~~follows:- When~~ PROVIDED IN THIS SECTION. IF 100 or
20 more ~~freeholders~~ REGISTERED ELECTORS residing within ~~such~~ THE
21 city ~~shall file~~ FILES with the CITY council, ~~thereof,~~ on or
22 before the first day of July in any year, a petition praying that
23 an election of the qualified voters of ~~such~~ THE city be called
24 to determine the question as to whether ~~such~~ THE city shall
25 become incorporated as a city of the fourth class under this act,
26 ~~being Act No. 215 of the Public Acts of this state for the year~~
27 ~~A.D. 1895, then it shall be the duty of~~ THEN the CITY council

HB5145, As Passed House, April 22, 1998

House Bill No. 5145

6

1 SHALL within 10 days after the filing of ~~such~~ THE petition ~~to~~
2 call a special election of the qualified voters of ~~such~~ THE
3 city to determine ~~such~~ THE question. ~~Any~~ EXCEPT AS OTHERWISE
4 PROVIDED IN THIS SECTION, AN election held under ~~the provisions~~
5 ~~of~~ this chapter shall be held upon such day, and at such time
6 and in such places in ~~said~~ THE city as may be designated by a
7 resolution of the CITY council. ~~∴ Provided, That the same~~
8 HOWEVER, AN ELECTION shall be held on or before the first day of
9 December in the year in which the petition ~~as above provided~~
10 UNDER THIS SECTION is filed. Notice of ~~such~~ THE election shall
11 be given in the same manner and for the same length of time as is
12 provided in the charter of ~~such~~ THE city for the calling of
13 special elections, and the votes shall be counted and canvassed,
14 and the returns shall be made, and the result declared and deter-
15 mined in the same manner as is provided in ~~such~~ THE charter for
16 the counting, canvassing, and returning of votes, and the deter-
17 mining of the result ~~thereof~~ OF THE ELECTION at special
18 elections. No new registration shall be necessary for the hold-
19 ing of ~~such~~ THE election, and only those whose names ~~shall~~
20 appear in the registration books used at the next previous annual
21 city election shall be entitled to vote at ~~such~~ THE election.
22 The ballots used at ~~such~~ THE election shall contain the
23 instructions required by the general election laws of the state,
24 and the proposition to be submitted shall be in the following
25 language:
26 For becoming reincorporated under the general law -- Yes. []

1 For becoming reincorporated under the general law -- No. []
2 If a majority of the votes cast at ~~such~~ THE election shall
3 be in favor of reincorporating under the provisions of this act,
4 then ~~such~~ THE city shall become reincorporated under and made
5 subject to the provisions of this act on the first day of January
6 in the year following ~~such~~ THE special election. At the next
7 regular meeting, the council shall, by a resolution to be entered
8 in the record of their proceedings, recite that at ~~said~~ THE
9 election, stating the date ~~thereof~~ OF THE ELECTION, the ques-
10 tion as to whether ~~said~~ THE city should be reincorporated as a
11 city of the fourth class under the provisions of this act was
12 submitted to a vote of the electors of the city, and that a
13 majority of those voting upon the question, voted for reincorpo-
14 ration, and shall in the resolution declare that, in accordance
15 with said vote, the ~~said~~ city shall be and is reincorporated as
16 a city of the fourth class; the clerk of the city shall record
17 the same in the record of the proceedings of the council and
18 shall make a copy of so much of the record of the proceedings of
19 the meeting at which the ~~same~~ RESOLUTION was adopted as may be
20 necessary to show the time and place of holding ~~such~~ THE meet-
21 ing, and the names of the members of the council who were
22 present, and the passage of ~~said~~ THE resolution, including a
23 true copy ~~thereof. To said copy the~~ OF THE RECORD. THE clerk
24 and the mayor of the city shall annex their certificate TO THE
25 TRUE COPY OF THE RECORD, under the corporate seal of the city
26 showing the same to be a true copy of ~~said~~ THE record, which
27 said certified copy of the record and resolution ~~aforesaid~~

HB5145, As Passed House, April 22, 1998

House Bill No. 5145

8

1 shall be designated as a "declaration of reincorporation" and
2 shall be transmitted to, and filed and recorded in the office of
3 the secretary of state, and the declaration of reincorporation
4 filed in the office of the secretary of state, or the records
5 ~~thereof~~ OF THE SECRETARY OF STATE, or certified copies of such
6 records shall be prima facie evidence of the due and legal rein-
7 corporation of ~~such~~ THE city as a city of the fourth class
8 under the provisions of this act.

9 Enacting section 1. This amendatory act does not take
10 effect unless House Bill No. 5138 of the 89th Legislature is
11 enacted into law.