

SENATE BILL No. 1082

February 5, 2008, Introduced by Senators GILBERT, BIRKHOLZ, PATTERSON and BASHAM and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1909 PA 278, entitled
"The home rule village act,"
by amending sections 4 and 5 (MCL 78.4 and 78.5), section 4 as
amended by 2003 PA 304, and by adding section 5b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A petition under section 2 shall be addressed to
2 the county board of commissioners of the county in which the
3 territory to be affected by the proposed incorporation,
4 consolidation, or change of boundaries is located. The petition
5 shall be filed with the clerk of the county board of commissioners
6 not less than 30 days before the **COUNTY** board of commissioners
7 convenes in regular session, or in a special session called ~~for the~~
8 ~~purpose of considering the~~ **TO CONSIDER THAT** petition. The **COUNTY**

1 board of commissioners shall determine if the petition complies
2 with the requirements of this act and if the statements contained
3 in the petition are correct.

4 (2) If a majority of the **COUNTY board OF COMMISSIONERS**
5 determines that the petition ~~does~~**OR THE SIGNATURES DO** not comply
6 with the requirements of this act or that the statements contained
7 in the petition are not correct, the **COUNTY board OF COMMISSIONERS**
8 shall not conduct further proceedings on the petition. If the
9 **COUNTY board OF COMMISSIONERS** determines that the petition complies
10 with the requirements of this act and that the statements contained
11 in the petition are correct, the **COUNTY board OF COMMISSIONERS**
12 shall, by resolution, provide that the question of making the
13 proposed incorporation, consolidation, or change of boundaries be
14 submitted to the qualified electors of ~~the~~**EACH** district to be
15 affected at the next general election, or at a special election
16 before the next general election on a regular election day
17 established under section 641 of the Michigan election law, 1954 PA
18 116, MCL 168.641, that is held 60 days or more after the adoption
19 of the resolution.

20 (3) ~~(2)~~After the adoption of a~~THE~~ resolution submitting the
21 ballot question to a vote of the electors, neither the sufficiency
22 nor legality of the petition under section 2 ~~may~~**SHALL** be
23 questioned in any proceeding.

24 (4) **THE COUNTY BOARD OF COMMISSIONERS SHALL NOT APPROVE A**
25 **PROPOSED ANNEXATION IF THAT PROPOSED ANNEXATION WAS DISAPPROVED BY**
26 **THE COUNTY BOARD OF COMMISSIONERS OR REJECTED BY THE QUALIFIED**
27 **ELECTORS WITHIN 2 YEARS BEFORE THE DATE THE PETITION IS FILED UNDER**

1 **SUBSECTION (1) .**

2 **(5) THE INCORPORATION AS A CITY BY A VILLAGE IS NOT AN**
 3 **ANNEXATION UNDER THIS SECTION.**

4 Sec. 5. (1) ~~The~~**A** district to be affected by ~~every such~~**A**
 5 proposed incorporation, consolidation, or change of boundaries ~~,~~
 6 ~~shall be deemed to include~~**INCLUDES** the whole of each city,
 7 village, or township from which territory is to be taken or to
 8 which territory is to be annexed. ~~: Provided, however, That~~
 9 ~~proposed~~

10 **(2) PROPOSED** incorporations, consolidations, or changes of
 11 boundaries shall be submitted to the qualified electors residing
 12 within the territory proposed to be incorporated, ~~or residing~~
 13 ~~within the village to which territory is to be annexed, as the case~~
 14 ~~may be, and also to the qualified electors of~~**AND** the city,
 15 village, or township ~~,~~from which the territory to be taken is
 16 located. ~~and at the election, when the said question is voted upon,~~

17 **(3) IN AN ELECTION FOR A PROPOSED INCORPORATION OR ANNEXATION,**
 18 the city, village, or township shall ~~conduct the election in such~~
 19 ~~manner as to keep~~**RECORD SEPARATELY** the votes of the qualified
 20 electors in the territory proposed to be incorporated or annexed ~~or~~
 21 ~~detached in a separate box from the one containing~~**AND** the votes **OF**
 22 **THE QUALIFIED ELECTORS** from the remaining portions of ~~such~~**THE**
 23 city, village, or township. ~~, and if the returns of said election~~
 24 ~~shall show~~**IF** a majority of the votes cast **QUALIFIED ELECTORS** in
 25 the district proposed to be incorporated or annexed, voting
 26 separately, ~~to be in favor of~~**APPROVE** the proposed incorporation or
 27 ~~change of boundary as the case may be~~**ANNEXATION**, and if a majority

1 of the **QUALIFIED** electors ~~voting in the remainder of the district~~
 2 to be affected, ~~as herein defined, voting collectively, are in~~
 3 ~~favor of~~ **APPROVE** the proposed incorporation or ~~change of boundary~~
 4 ~~as the case may be~~ **ANNEXATION**, then ~~such~~ **THAT** territory shall
 5 become incorporated as a village or shall become a part of the
 6 corporate territory of the village. ~~or shall be detached therefrom,~~
 7 ~~as the case may be: Provided further, That in case~~ **IF** there are no
 8 qualified electors residing within the territory proposed to be
 9 ~~detached, or annexed, AND~~ if a majority of electors voting in the
 10 remainder of the district to be affected ~~, as herein defined, are~~
 11 in favor of the proposed ~~change of boundary~~ **ANNEXATION**, then ~~such~~
 12 **THAT** territory shall become a part of the corporate territory of
 13 the village. ~~or shall be detached therefrom, as the case may be.~~
 14 ~~Provided further, That the~~ **THE QUESTION OF A PROPOSED DETACHMENT OF**
 15 **TERRITORY FROM A VILLAGE TO A TOWNSHIP SHALL BE SUBMITTED TO THE**
 16 **QUALIFIED ELECTORS AS PROVIDED IN SECTION 5B.**

17 (4) **THE** question of incorporating a new village from territory
 18 located in a township or townships shall be determined by a
 19 majority of the votes cast at an election at which only the
 20 **QUALIFIED** electors residing within the territory proposed to be
 21 incorporated shall vote.

22 **SEC. 5B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT,**
 23 **TERRITORY MAY BE DETACHED FROM A VILLAGE TO A TOWNSHIP ONLY IF ALL**
 24 **OF THE FOLLOWING CONDITIONS ARE MET:**

25 (A) **THE TERRITORY TO BE DETACHED DOES NOT CONTAIN ANY REAL**
 26 **PROPERTY OWNED BY THE VILLAGE, EXCEPT FOR UTILITIES AND OTHER**
 27 **FACILITIES THAT ARE LOCATED WITHIN A PUBLIC RIGHT-OF-WAY.**

1 (B) THE TERRITORY TO BE DETACHED WAS NOT ANNEXED WITHIN THE
2 PREVIOUS 2 YEARS.

3 (C) THE DETACHMENT IS APPROVED BY A MAJORITY VOTE OF THE
4 QUALIFIED ELECTORS RESIDING IN EACH OF THE FOLLOWING, COUNTED
5 SEPARATELY:

6 (i) THE TERRITORY PROPOSED TO BE DETACHED FROM THE VILLAGE.

7 (ii) THE REMAINING PORTION OF THE VILLAGE.

8 (iii) THE TOWNSHIP TO WHICH THE TERRITORY WILL BE ATTACHED.

9 Enacting section 1. This amendatory act does not take effect
10 unless all of the following bills of the 94th Legislature are
11 enacted into law:

12 (a) Senate Bill No. 1080.

13
14 (b) Senate Bill No. 1083.

15
16 (c) Senate Bill No. 1079.

17
18 (d) Senate Bill No. 1081.

19
20 (e) Senate Bill No. 1078.