

HOUSE BILL No. 6040

December 2, 2014, Introduced by Rep. Franz and referred to the Committee on Local Government.

A bill to amend 1895 PA 3, entitled "The general law village act," by amending section 1 of chapter II, sections 5 and 8 of chapter V, sections 3a and 4 of chapter VI, section 26 of chapter VII, and section 6 of chapter XIV (MCL 62.1, 65.5, 65.8, 66.3a, 66.4, 67.26, and 74.6), section 1 of chapter II as amended by 2004 PA 300, sections 5 and 8 of chapter V, section 3a of chapter VI, and section 26 of chapter VII as amended by 1998 PA 255, and section 4 of chapter VI as amended by 2012 PA 10.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER II—OFFICERS.

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

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

7 (2) The council by a vote of 2/3 of the members of council may
8 provide by ordinance for the reduction in the number of trustees to
9 4 or for the election of all trustees at the same election for 2-
10 year terms at the first possible election after 2004 who with the
11 president shall constitute the council, and may provide by
12 ordinance for the method of changing from 2-year staggered terms to
13 4-year staggered terms. If village trustees are elected biennially
14 for staggered 4-year terms, the ordinance shall as nearly as
15 possible maintain staggered terms and provide for an equal number
16 of seats to be filled at each election. The ordinance may extend
17 but shall not shorten the term of an incumbent trustee. The
18 ordinance may extend a prospective term. The ordinance shall not
19 shorten or eliminate a prospective term unless the nomination
20 deadline for that term is not less than 30 days after the effective
21 date of the ordinance. An ordinance adopted under this subsection
22 shall satisfy both of the following conditions:

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

26 (b) ~~Notice~~ **BEFORE JANUARY 1, 2015, NOTICE** of each meeting at
27 which the ordinance is considered indicating that an ordinance

1 reducing the size of the council or to change the time of election
2 of the trustees comprising the council will be 1 of the subjects of
3 the meeting shall be published not less than 10 days before the
4 meeting in a newspaper of general circulation in the village.

5 **BEGINNING JANUARY 1, 2015, PUBLIC NOTICE OF EACH MEETING AT WHICH**
6 **THE ORDINANCE IS CONSIDERED INDICATING THAT AN ORDINANCE REDUCING**
7 **THE SIZE OF THE COUNCIL OR TO CHANGE THE TIME OF ELECTION OF THE**
8 **TRUSTEES COMPOSING THE COUNCIL WILL BE 1 OF THE SUBJECTS OF THE**
9 **MEETING SHALL BE PROVIDED IN THE MANNER REQUIRED UNDER THE OPEN**
10 **MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.**

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

19 (4) The council shall provide that an ordinance adopted under
20 subsection (2) or (3) takes effect 45 days after the date of
21 adoption unless a petition signed by not less than 10% of the
22 registered electors of the village is filed with the village clerk
23 within the 45-day period, in which case the ordinance takes effect
24 upon approval at an election held on the question. Notice of the
25 delayed effect of the ordinance and the right of petition under
26 this subsection shall be published **OR POSTED** separately at the same
27 time, and in the same manner, as the ordinance is published

1 ~~pursuant to~~ **OR POSTED UNDER** section 4 of chapter VI. The village
2 clerk shall verify the signatures on the petitions. If a petition
3 bearing the required number of valid signatures of electors is
4 filed, the question of ~~adoption of~~ **ADOPTING** the ordinance shall be
5 submitted at the next general or special election. The ballot
6 language for the question shall be prepared by the village clerk,
7 unless the question concerns the appointment of the clerk under
8 subsection (2), in which case the ballot language shall be prepared
9 by the village council.

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

16 CHAPTER V—VILLAGE COUNCIL.

17 Sec. 5. (1) The council shall prescribe the rules of its own
18 proceedings, ~~—~~and shall keep a record of those proceedings. A
19 majority of the members of council shall be a quorum for the
20 transaction of business. A lesser number may adjourn and compel the
21 attendance of absent members in a manner as prescribed by
22 ordinance.

23 (2) An office shall not be created or abolished; a street,
24 alley, or public ground vacated; real estate or an interest in real
25 estate purchased, leased, sold, or disposed of; or a public
26 improvement ordered, except by a majority vote of the members of
27 council. The vote shall be taken by yeas and nays ~~—~~and entered in

1 the journal. However, a tax shall not be increased or a special
2 assessment imposed except by an affirmative vote of 2/3 of the
3 members of council.

4 (3) Money shall not be appropriated except by ordinance or
5 resolution of the council. An ordinance appropriating money shall
6 not be passed, or a resolution appropriating money shall not be
7 adopted, except by a majority vote of the members of council. The
8 vote shall be taken by yeas and nays —and entered in the journal.
9 ~~Within~~**BEFORE JANUARY 1, 2015, WITHIN** 15 days after a meeting of
10 the council, a synopsis or the entirety of the proceedings,
11 including the vote of the members, prepared by the clerk and
12 approved by the president showing the substance of each separate
13 decision of the council shall be published in a newspaper of
14 general circulation in the village or posted in 3 public places in
15 the village. **BEGINNING JANUARY 1, 2015, WITHIN 15 DAYS AFTER A**
16 **MEETING OF THE COUNCIL, TIER B PUBLIC NOTICE WITH A LINK OF A**
17 **SYNOPSIS OR THE ENTIRETY OF THE PROCEEDINGS, INCLUDING THE VOTE OF**
18 **THE MEMBERS, PREPARED BY THE CLERK AND APPROVED BY THE PRESIDENT**
19 **SHOWING THE SUBSTANCE OF EACH SEPARATE DECISION OF THE COUNCIL**
20 **SHALL BE PROVIDED AS SET FORTH IN THE LOCAL GOVERNMENT PUBLIC**
21 **NOTICE ACT.**

22 (4) A writing prepared, owned, used, in the possession of, or
23 retained by the council or by the clerk, treasurer, or other
24 officer of the village in the performance of an official function
25 shall be made available to the public in compliance with the
26 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

27 Sec. 8. (1) The council may employ a village manager.

1 (2) The **VILLAGE** manager shall serve at the pleasure of the
2 council.

3 (3) The council may enter into an employment contract with a
4 village manager for a period extending beyond the terms of the
5 members of council, but not exceeding 6 years. An employment
6 contract with a **VILLAGE** manager shall be in writing and shall
7 specify the compensation to be paid to the **VILLAGE** manager, any
8 procedure for changing compensation, any fringe benefits, and any
9 other conditions of employment. The contract shall state that the
10 **VILLAGE** manager serves at the pleasure of the council. The contract
11 may provide for severance pay or other benefits in the event the
12 employment of the **VILLAGE** manager is terminated at the pleasure of
13 the council. Unless otherwise provided by ordinance adopted under
14 subsection (4), the council may assign to the **VILLAGE** manager only
15 those powers and duties not required by law to be assigned to or
16 performed by another official of the village.

17 (4) The council may adopt an ordinance assigning to the
18 **VILLAGE** manager an administrative duty imposed by this act on the
19 council; an administrative duty imposed by this act on the village
20 president; the authority to appoint, remove, direct, or supervise
21 any employee or appointed official of the village; or supervisory
22 responsibility over the accounting, budgeting, personnel,
23 purchasing, and related management functions imposed by this act on
24 the village clerk and the village treasurer. The council shall
25 provide in the ordinance that the assignment becomes effective 45
26 days after the date of adoption and that if a petition signed by
27 not less than 10% of the registered electors of the village is

1 filed with the village clerk within the 45-day period, the
2 ordinance shall not become effective until after the ordinance is
3 approved at an election held on the question. Notice of the delayed
4 effect of the ordinance and the right of petition under this
5 subsection shall be published **OR POSTED** separately at the same
6 time, and in the same manner, as the ordinance is published
7 ~~pursuant to~~ **OR POSTED UNDER** section 4 of chapter VI. The village
8 clerk shall compare the signatures on the petitions to the
9 signatures of those electors as they appear on the appropriate
10 registration cards. If a petition bearing the required number of
11 valid signatures of electors is filed, the clerk shall perform the
12 acts required for the submission of the question of adoption of the
13 ordinance at the next general or special election. An ordinance
14 adopted before December 2, 1985 that conforms substantially with
15 the requirements of this subsection is valid to the same extent as
16 if the ordinance had been adopted on or after December 2, 1985.

17 CHAPTER VI—ORDINANCES.

18 Sec. 3a. A village may codify, recodify, and continue in code
19 the village's ordinances, in whole or in part, without the
20 necessity of publishing **OR POSTING** the entire code in full. The
21 ordinance adopting the code and ordinances repealing, amending,
22 continuing, or adding to the code shall be published **OR POSTED** as
23 required by section 4 of this chapter. The publication **OR POSTING**
24 shall state where a copy of the entire code can be reviewed and
25 obtained. The ordinance adopting the code may amend, repeal,
26 revise, or rearrange ordinances or parts of ordinances by
27 references to the title only.

1 Sec. 4. (1) ~~Within~~ **BEFORE JANUARY 1, 2015, WITHIN** 15 days
2 after an ordinance is passed, the clerk shall publish the ordinance
3 or a synopsis of the ordinance in a newspaper circulated in the
4 village. **BEGINNING JANUARY 1, 2015, WITHIN 15 DAYS AFTER AN**
5 **ORDINANCE IS PASSED, TIER B PUBLIC NOTICE WITH A LINK OF THE**
6 **ORDINANCE OR A SYNOPSIS OF THE ORDINANCE SHALL BE PROVIDED BY THE**
7 **CLERK AS SET FORTH IN THE LOCAL GOVERNMENT PUBLIC NOTICE ACT.**
8 Immediately after the ordinance or synopsis of the ordinance is
9 published **OR POSTED**, the clerk shall enter in the record of
10 ordinances, in a blank space to be left for that purpose under the
11 record of the ordinance, a signed certificate, stating the date on
12 which and the ~~name of the newspaper~~ **METHOD** in which the ordinance
13 was published **OR POSTED**. The certificate is prima facie evidence of
14 the publication **OR POSTING** of the ordinance or the synopsis.

15 (2) A village may adopt a provision of any state statute for
16 which the maximum period of imprisonment is 93 days, the Michigan
17 vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a plumbing
18 code, electrical code, mechanical code, fire protection code,
19 building code, or other code promulgated by this state, by a
20 department, board, or other agency of this state, or by an
21 organization or association that is organized or conducted for the
22 purpose of developing a code, by reference to the law or code in an
23 adopting ordinance and without publishing **OR POSTING** the law or
24 code in full. The law or code shall be clearly identified in the
25 ordinance and a statement of the purpose of the law or code shall
26 be published **OR POSTED** with the adopting ordinance. Printed copies
27 of the law or code shall be kept in the office of the village clerk

1 available for inspection by or distribution to the public during
 2 normal business hours. The village may charge a fee that does not
 3 exceed the actual cost for copies of the law or code distributed to
 4 the public. The publication ~~in the newspaper~~ **OR POSTING** shall
 5 contain a notice to the effect that a complete copy of the law or
 6 code is available for public use and inspection at the office of
 7 the village clerk. Except as otherwise provided in this subsection,
 8 a village shall not enforce any provision adopted by reference for
 9 which the maximum period of imprisonment is greater than 93 days. A
 10 village may adopt section 625(1)(c) of the Michigan vehicle code,
 11 1949 PA 300, MCL 257.625, by reference in an adopting ordinance and
 12 shall provide that a violation of that ordinance is a misdemeanor
 13 punishable by 1 or more of the following:

- 14 (a) Community service for not more than 360 hours.
 15 (b) Imprisonment for not more than 180 days.
 16 (c) A fine of not less than \$200.00 or more than \$700.00.

17 CHAPTER VII—POWERS OF COUNCIL.

18 Sec. 26. (1) Before ~~proceeding to the~~ **BEGINNING** construction
 19 of any sewer, drain, or watercourse, all or part of the expense of
 20 which is to be defrayed by special assessment, the council shall
 21 cause a map to be made of those lands and premises ~~which~~ **THAT** in
 22 their opinion will be benefited and ~~which~~ **THAT** they intend to
 23 assess for the cost. Those lands shall constitute a special
 24 assessment district. ~~and the~~ **THE** map shall show the boundaries
 25 and divisions of all the lots and premises in the district, the
 26 proposed route and location of the improvement through the
 27 district, and the depth, grade, and dimensions of the improvement.

1 The map, with an estimate of the cost of the proposed work, shall
 2 be deposited with the clerk. ~~and~~ **BEFORE JANUARY 1, 2015**, notice
 3 shall be given by publication in a newspaper of the village for 2
 4 weeks or by posting copies of ~~such~~ **THE** notice for 2 weeks, in 3
 5 public places in the village, of the intention to construct the
 6 improvement, ~~and~~ where the map and estimates can be found, and
 7 ~~appointing a~~ **THE** time when the council will meet to hear any
 8 suggestions and objections from persons interested or liable to be
 9 assessed for the work. **BEGINNING JANUARY 1, 2015, TIER A PUBLIC**
 10 **NOTICE OF THE INTENTION TO CONSTRUCT THE IMPROVEMENT, WHERE THE MAP**
 11 **AND ESTIMATES CAN BE FOUND, AND THE TIME WHEN THE COUNCIL WILL MEET**
 12 **TO HEAR ANY SUGGESTIONS AND OBJECTIONS FROM PERSONS INTERESTED OR**
 13 **LIABLE TO BE ASSESSED FOR THE WORK SHALL BE PROVIDED AS SET FORTH**
 14 **IN THE LOCAL GOVERNMENT PUBLIC NOTICE ACT.**

15 (2) The special assessments shall be made in the manner
 16 provided by law.

17 CHAPTER XIV—MISCELLANEOUS.

18 Sec. 6. ~~Whenever~~ **IF** the council of any village ~~shall determine~~
 19 **DETERMINES** by resolution to alter the boundaries of ~~such~~ **THE**
 20 village, either by taking in lands and premises ~~adjoining thereto~~
 21 **ADJOINED TO THE VILLAGE** or by taking out any lands and premises
 22 included in ~~such~~ **THE** village, or both, they shall petition the
 23 **COUNTY** board of ~~supervisors~~ **COMMISSIONERS** of the county in which
 24 ~~such~~ **THE** lands and premises affected ~~thereby~~ are situated to make
 25 ~~such~~ **THE** change. ~~Such~~ **THE** petition shall contain a description by
 26 metes and bounds of the lands and premises proposed to be added to
 27 or taken out of ~~such~~ **THE** village, ~~and~~ shall set forth the reasons

1 for the proposed change, ~~and~~ shall contain a copy of the resolution
 2 of the council in relation thereto, and shall be signed by the
 3 president and clerk of ~~such~~**THE** village. Before ~~such~~**JANUARY 1,**
 4 **2015, BEFORE THE** petition ~~shall be~~**IS** presented to the **COUNTY** board
 5 of ~~supervisors~~**COMMISSIONERS**, notice shall be given by the clerk of
 6 the time and place when the ~~same~~**PETITION** will be presented for
 7 consideration ~~by~~ publishing the ~~same~~**NOTICE** in a newspaper
 8 published in ~~such~~**THE** village for at least 3 weeks immediately
 9 ~~preceding~~**BEFORE** the presentation of the ~~same~~**PETITION**, and if ~~no~~
 10 **A** newspaper is **NOT** published in ~~such~~**THE** village, then by posting
 11 the ~~same~~**NOTICE** in at least 3 of the most public places within the
 12 village ~~and~~ in at least 3 of the most public places of the
 13 territory directly affected. ~~thereby. Such~~**BEGINNING JANUARY 1,**
 14 **2015, BEFORE THE PETITION IS PRESENTED TO THE COUNTY BOARD OF**
 15 **COMMISSIONERS, TIER A PUBLIC NOTICE OF THE TIME AND PLACE WHEN AND**
 16 **WHERE THE PETITION WILL BE PRESENTED FOR CONSIDERATION SHALL BE**
 17 **PROVIDED BY THE CLERK AS SET FORTH IN THE LOCAL GOVERNMENT PUBLIC**
 18 **NOTICE ACT. THE** notice shall also contain a description of the
 19 premises proposed to be taken in or out of the boundaries of ~~such~~
 20 **THE** village. At the time of presenting ~~such~~**THE** petition, all
 21 parties interested may appear before ~~such~~**THE COUNTY** board of
 22 ~~supervisors~~**COMMISSIONERS** and be heard touching the proposed
 23 boundaries of ~~such~~**THE** village. ~~and after such~~**AFTER THE** hearing
 24 and due consideration of ~~such~~**THE** petition, it ~~shall be~~**IS** the duty
 25 of the **COUNTY** board of ~~supervisors~~**COMMISSIONERS** to order and
 26 determine ~~as to~~ whether the prayer contained in the petition or any
 27 part thereof ~~of~~**THE PETITION** shall be granted. ~~and they~~**THE**

1 COUNTY BOARD OF COMMISSIONERS shall make an order of ~~such~~**THE**
2 determination, which order shall be entered upon their records, and
3 thereupon the boundaries of ~~such~~**THE** village shall be fixed and
4 shall exist as provided in ~~such~~**THE** order, and a certified copy
5 thereof ~~OF THE ORDER~~ shall be transmitted to the clerk of ~~such~~**THE**
6 village and to the secretary of state. ~~, and such~~**THE** order shall
7 be ~~IS~~ prima facie evidence of ~~such~~**THE** change of boundaries of ~~such~~
8 **THE** village and of the regularity of ~~such~~**THE** proceedings in all
9 courts and places.

10 Enacting section 1. This amendatory act does not take effect
11 unless House Bill No. 5560 of the 97th Legislature is enacted into
12 law.