

SENATE BILL No. 380

April 22, 2003, Introduced by Senators TOY, BIRKHOLZ and BARCIA and referred to the Committee on Local, Urban and State 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) and by adding
section 5b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) ~~Said~~ A petition under section 2 shall be
2 addressed to the county board of ~~supervisors~~ commissioners of
3 the county in which the territory to be affected by ~~such~~ the
4 proposed incorporation, consolidation, or change of boundaries is
5 located ~~—~~ and shall be filed with the clerk of ~~said~~ the
6 county board of commissioners not less than 30 days before the
7 ~~convening of such~~ county board of commissioners convenes in
8 regular session ~~—~~ or in ~~any~~ a special session called ~~for the~~
9 ~~purpose of considering said~~ to consider that petition. ~~—~~ and
10 ~~if, before final action thereon, it shall appear to said board~~

1 or

2 **(2) If a majority ~~thereof~~ of the county board of**
 3 **commissioners determines** that ~~said~~ the petition or the ~~signing~~
 4 ~~thereof does~~ **signatures do** not conform to this act ~~,~~ or that
 5 the petition contains incorrect statements, **the county board of**
 6 **commissioners shall hold** no further proceedings ~~pursuant to~~
 7 ~~said~~ on that petition. ~~shall be had, but, if it shall appear~~
 8 **If a majority of the county board of commissioners determines**
 9 that ~~said~~ the petition conforms ~~in all respects~~ to ~~the~~
 10 ~~provisions of~~ this act ~~,~~ and that the statements contained
 11 ~~therein~~ **in the petition** are true, ~~said~~ **the county board of**
 12 ~~supervisors~~ **commissioners** shall, by resolution, provide that
 13 the question of making the proposed incorporation, consolidation,
 14 or change of boundaries shall be submitted to the qualified
 15 electors of ~~the~~ **each** district to be affected at the next
 16 general election, if ~~one~~ **a general election** shall occur in not
 17 less than ~~40~~ **60** days and not more than 90 days after the
 18 adoption of ~~such~~ **the** resolution. ~~,~~ ~~and if~~ **If** no general
 19 election is to occur within ~~such~~ **that** period, ~~said~~ **the**
 20 resolution shall fix a date within ~~such~~ **that** period for a
 21 special election on ~~such~~ **the** question.

22 **(3) After the adoption of ~~such~~ the resolution,** neither the
 23 sufficiency nor **the** legality of the petition on which it is based
 24 ~~may~~ **shall** be questioned in any proceeding.

25 **(4) The county board of commissioners shall not approve a**
 26 **proposed annexation if that proposed annexation was disapproved**
 27 **by the county board of commissioners or rejected by the qualified**

1 electors within 2 years before the date the petition is filed
2 under subsection (1).

3 (5) The incorporation as a city by a village is not an
4 annexation under this section.

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

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

19 (3) **In an election for a proposed incorporation or**
20 **annexation,** the city, village, or township shall ~~conduct the~~
21 ~~election in such manner as to keep~~ **record separately** the votes
22 of the qualified electors in the territory proposed to be
23 incorporated or annexed ~~or detached in a separate box from the~~
24 ~~one containing~~ **and the votes of the qualified electors** from the
25 remaining portions of ~~such~~ **the** city, village, or township. ~~, and if the returns of said election shall show~~ **If** a majority of
26 ~~the votes cast~~ **qualified electors** in the district proposed to
27

1 be incorporated or annexed, voting separately, ~~to be in favor~~
 2 ~~of~~ **approve** the proposed incorporation or ~~change of boundary as~~
 3 ~~the case may be~~ **annexation**, and if a majority of the **qualified**
 4 electors ~~voting~~ in the remainder of the district to be
 5 affected, ~~as herein defined,~~ voting collectively, ~~are in favor~~
 6 ~~of~~ **approve** the proposed incorporation or ~~change of boundary as~~
 7 ~~the case may be~~ **annexation**, then ~~such~~ **that** territory shall
 8 become incorporated as a village or shall become a part of the
 9 corporate territory of the village. ~~or shall be detached~~
 10 ~~therefrom, as the case may be: Provided further, That in case~~
 11 **If** there are no qualified electors residing within the territory
 12 proposed to be ~~detached, or~~ annexed ~~,~~ **and** if a majority of
 13 electors voting in the remainder of the district to be affected
 14 ~~,~~ ~~as herein defined,~~ are in favor of the proposed ~~change of~~
 15 ~~boundary~~ **annexation**, then ~~such~~ **that** territory shall become a
 16 part of the corporate territory of the village. ~~or shall be~~
 17 ~~detached therefrom, as the case may be: Provided further, That~~
 18 ~~the~~ **The question of a proposed detachment of territory from a**
 19 **village to a township shall be submitted to the qualified**
 20 **electors as provided in section 5b.**

21 **(4)** The question of incorporating a new village from
 22 territory located in a township or townships shall be determined
 23 by a majority of the votes cast at an election at which only the
 24 **qualified** electors residing within the territory proposed to be
 25 incorporated shall vote.

26 **Sec. 5b. Notwithstanding any other provision of this act,**
 27 **territory may be detached from a village to a township only if**

1 all of the following conditions are met:

2 (a) The territory to be detached does not contain any real
3 property owned by the village, except for utilities and other
4 facilities that are located within a public right-of-way.

5 (b) The territory to be detached was not annexed within the
6 previous 2 years.

7 (c) The detachment is approved by a majority vote of the
8 qualified electors residing in each of the following, counted
9 separately:

10 (i) The territory proposed to be detached from the village.

11 (ii) The remaining portion of the village.

12 (iii) The township to which the territory will be attached.

13 Enacting section 1. This amendatory act does not take effect
14 unless all of the following bills of the 92nd Legislature are
15 enacted into law:

16 (a) Senate Bill No. 383

17 .

18 (b) Senate Bill No. 384

19 .

20 (c) Senate Bill No. 382

21 .

22 (d) Senate Bill No. 381

23 .

24 (e) Senate Bill No. 379

25 .