

1998 PUBLIC AND LOCAL ACTS

[No. 149]

(HB 5145)

AN ACT to amend 1895 PA 215, entitled "An act to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto, and to validate such prior amendments and certain prior actions taken and bonds issued by such cities," 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:

TITLE

An act to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto; to validate such prior amendments and certain prior actions taken and bonds issued by such cities; and to prescribe penalties and provide remedies.

CHAPTER I

81.3 Incorporation; petition; resolution of village council; referendum.
[M.S.A. 5.1593]

Sec. 3. Any 100 or more registered electors residing within a village may present to the village council a petition setting forth the population of the village as shown by the census, and asking that the village be incorporated as a city of the fourth class. If the village council is satisfied that the village contains the population required in section 2 of this chapter, the village council shall by resolution to be entered upon the record of their proceedings, reciting the presentation of the petition and the object of the petition, and that the village contains the requisite population, submit the question as to whether the village shall be incorporated as a city of the fourth class to a vote of the electors of the village at the next annual village election.

CHAPTER VI

86.11 Violation of §§168.1 to 168.992 applicable to petitions;
penalties. [M.S.A. 5.1652]

Sec. 11. A petition under section 3 of chapter I, section 40 of chapter VII, section 11 or 13 of chapter XXVIII, or section 1 of chapter XXXIII, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

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CHAPTER XXVIII

108.11 Board of public works abolished; procedure. [M.S.A. 5.1914]

Sec. 11. The council of every city subject to the provisions of this act and the acts to which this act is amendatory, upon petition to them of 50 or more registered electors of the city praying that an election of the qualified voters of the city be called to determine whether the board of public works in the city shall be abolished, shall, by resolution, submit the question of abolishing the board of public works to the qualified electors of the city at the city election held in the month of April next following. The board of public works in the city shall not be abolished unless a majority of the electors voting on the proposition shall by ballot so determine.

108.13 Board of public works abolished; re-establishment procedure. [M.S.A. 5.1916]

Sec. 13. In a city subject to this act, and in which the board of public works has been abolished as provided in this chapter, the council, on petition to them of 100 registered electors of the city praying for the re-establishment of the board of public works in the city, shall, by resolution, submit to the qualified electors of the city at the city election held in the month of April next following the proposition to re-establish the board of public works. If 2/3 of the electors voting on the proposition vote in favor of the board of public works, then the board of public works is re-established in the city and shall be constituted and selected in the same way and have the same qualifications, powers, and duties provided for boards of public works in the act of which this act is amendatory.

CHAPTER XXXIII

113.1 Reincorporation under act; procedure; city council; duty; resolution; declaration of reincorporation; filing; evidence. [M.S.A. 5.2000]

Sec. 1. All cities heretofore incorporated under any general or special law of this state, and having a population of 10,000 or less, according to the last preceding census, are hereby reincorporated under and made subject to the provisions of this act, as cities of the fourth class, such reincorporation to take effect on the first day of January, in the year of our Lord 1896, and all acts by virtue of which such cities have been incorporated are hereby repealed from and after the said first day of January, in the year of our Lord 1896, except as hereinafter in this section provided. However, if 50 or more of the qualified voters of any city described in this section as a city of the fourth class, which city has been incorporated under a special act of the legislature, shall file with the city council, on or before the first day of November, in the year of our Lord 1895, a petition praying that an election of the qualified voters of such city be called to determine the question as to whether such city shall remain incorporated under the special act under which it was incorporated and by which it is governed at the time of the filing of the petition, or whether it shall become subject to the provisions of this act, thereupon it shall be the duty of the city council, within 10 days after the filing of the petition, to call a special election of the qualified voters of the city to determine the question. If a majority of all the votes cast at the election are in favor of remaining incorporated under the special act by which the city is governed at the time of the filing of the petition, then the city shall not be reincorporated under the provisions of this act, but shall remain incorporated under the special act, which shall remain in full force and effect as if this law had not been enacted.

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However, if a city of this state, when the population of the city is 10,000 or less, according to the last preceding state census even though the voters of the city previously elected to remain incorporated under the special act governing the city, may be incorporated under and made subject to the provisions of this act and the act of which this act is amendatory, as a city of the fourth class as provided in this section. If 100 or more registered electors residing within the city files with the city council, on or before the first day of July in any year, a petition praying that an election of the qualified voters of the city be called to determine the question as to whether the city shall become incorporated as a city of the fourth class under this act, then the city council shall within 10 days after the filing of the petition call a special election of the qualified voters of the city to determine the question. Except as otherwise provided in this section, an election held under this chapter shall be held upon such day, and at such time and in such places in the city as may be designated by a resolution of the city council. However, an election shall be held on or before the first day of December in the year in which the petition under this section is filed. Notice of the election shall be given in the same manner and for the same length of time as is provided in the charter of the city for the calling of special elections, and the votes shall be counted and canvassed, and the returns shall be made, and the result declared and determined in the same manner as is provided in the charter for the counting, canvassing, and returning of votes, and the determining of the result of the election at special elections. No new registration shall be necessary for the holding of the election, and only those whose names appear in the registration books used at the next previous annual city election shall be entitled to vote at the election. The ballots used at the election shall contain the instructions required by the general election laws of the state, and the proposition to be submitted shall be in the following language:

For becoming reincorporated under the general law — Yes. []

For becoming reincorporated under the general law — No. []

If a majority of the votes cast at the election shall be in favor of reincorporating under the provisions of this act, then the city shall become reincorporated under and made subject to the provisions of this act on the first day of January in the year following the special election. At the next regular meeting, the council shall, by a resolution to be entered in the record of their proceedings, recite that at the election, stating the date of the election, the question as to whether the city should be reincorporated as a city of the fourth class under the provisions of this act was submitted to a vote of the electors of the city, and that a majority of those voting upon the question, voted for reincorporation, and shall in the resolution declare that, in accordance with said vote, the city shall be and is reincorporated as a city of the fourth class; the clerk of the city shall record the same in the record of the proceedings of the council and shall make a copy of so much of the record of the proceedings of the meeting at which the resolution was adopted as may be necessary to show the time and place of holding the meeting, and the names of the members of the council who were present, and the passage of the resolution, including a true copy of the record. The clerk and the mayor of the city shall annex their certificate to the true copy of the record, under the corporate seal of the city showing the same to be a true copy of the record, which said certified copy of the record and resolution shall be designated as a "declaration of reincorporation" and shall be transmitted to, and filed and recorded in the office of the secretary of state, and the declaration of reincorporation filed in the office of the secretary of state, or the records of the secretary of state, or certified copies of such records shall be prima facie evidence of the due and legal reincorporation of the city as a city of the fourth class under the provisions of this act.

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Conditional effective date.

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

Approved June 24, 1998.

Filed with Secretary of State June 25, 1998.

Compiler's note: House Bill No. 5138, referred to in enacting section 1, was filed with the Secretary of State June 25, 1998, and became P.A. 1998, No. 142, Eff. March 23, 1999.
