The People of the State of Michigan enact:

435.361 Juneteenth National Freedom Day; Sojourner Truth Day.

Sec. 1. (1) The legislature recognizes that slavery existed in this country for more than 200 years. Millions of African-Americans were brought to this country as slaves stacked in the bottom of slave ships in a 5- to 12-week journey across the Atlantic Ocean known as the "middle passage". Although approximately 11-1/2 million African-Americans survived the voyage across the ocean, the number of those who died in the inhuman conditions of the passage is probably even higher. Once in this country, the captives were subjected to whipping, castration, branding, and rape. The legislature further observes that congress passed the thirteenth amendment to the United States constitution on January 31, 1865, abolishing slavery throughout the United States and its territories. In the following months, spontaneous celebrations erupted throughout the country whenever African-Americans learned of their freedom. News of the amendment reached the states at different times, and it was not until June 19, 1865 that the message of freedom reached the slaves in the western states. In honor of this great moment in the history of our nation, the legislature declares that the third Saturday in June of each year shall be known as "Juneteenth National Freedom Day". The legislature encourages individuals, educational institutions, and social, community, religious, labor, and business organizations to pause on Juneteenth National Freedom Day and reflect upon the strong survival instinct of the African-American slaves and the excitement and great joy with which African-Americans first celebrated the abolition of slavery. It is a reminder to all Americans of the status and importance of Americans of African descent as American citizens.

(2) The legislature recognizes the fundamental contribution Sojourner Truth made to the cause of abolition of slavery and the establishment of equal rights for women and to several other significant social reform and human justice movements in the nineteenth century. Truth toured the nation for over 40 years as a forceful and passionate advocate for the dispossessed, using her quick wit and fearless tongue to deliver her message of equality and justice. She lived in Battle Creek, Michigan, from 1857 until her death on November 26, 1883. Empowered by her religious faith, the former slave worked tirelessly for many years to transform national attitudes and institutions. According to Nell Painter, Princeton professor and Truth biographer, "No other woman who had gone through the ordeal of slavery managed to survive with sufficient strength, poise, and self-confidence to become a public presence over the long term". Designating Sojourner Truth Day in the state of Michigan will not only acknowledge the importance of this national figure in the antislavery and human justice movements, but will also recognize her strong ties to the state during her 26 years of residence here. In recognition of this great woman, the legislature declares November 26 of each year to be known as "Sojourner Truth Day".

This act is ordered to take immediate effect.
Approved June 17, 2005.
Filed with Secretary of State June 17, 2005.

[No. 49]

(HB 4447)

AN ACT to amend 2004 PA 403, entitled "An act to regulate certain forms of boxing; to create certain commissions and to provide certain powers and duties for certain state

agencies and departments; to license and regulate certain persons engaged in boxing, certain persons connected to the business of boxing, and certain persons conducting certain contests and exhibitions; to confer immunity under certain circumstances; to provide for the conducting of certain tests; to assess certain fees; to create certain funds; to promulgate rules; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 11, 31, 33, 34, 47, 48, and 54 (MCL 338.3611, 338.3631, 338.3633, 338.3634, 338.3647, 338.3648, and 338.3654).

The People of the State of Michigan enact:

338.3611 Definitions; P to S.

Sec. 11. As used in this act:

(a) "Physician" means that term as defined in section 17001 or 17501 of the public health code, 1978 PA 368, MCL 333.17001 and 333.17501.

(b) "Professional" means a person who is competing or has competed in boxing for a money prize.

(c) "Promoter" means any person who produces or stages any professional contest or exhibition of boxing, but does not include the venue where the exhibition or contest is being held unless the venue contracts with the individual promoter to be a co-promoter.

(d) "Purse" means the financial guarantee or any other remuneration for which professionals are participating in a contest or exhibition and includes the professional's share of any payment received for radio, television, or motion picture rights.

(e) "Respondent" means a person against whom a complaint has been filed who may be a person who is or is required to be licensed under this act.

(f) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(g) "School", "college", or "university" does not include an institution formed or operated principally to provide instruction in boxing and other sports.

338.3631 Application.

Sec. 31. By filing an application for a license, an applicant does both of the following:

(a) Certifies his or her general suitability, character, integrity, and ability to participate, engage in, or be associated with boxing contests or exhibitions. The burden of proof is on the applicant to establish to the satisfaction of the commission and the department that the applicant is qualified to receive a license.

(b) Accepts the risk of adverse public notice, embarrassment, criticism, financial loss, or other action with respect to his or her application and expressly waives any claim for damages as a result of any adverse public notice, embarrassment, criticism, financial loss, or other action. Any written or oral statement made by any member of the commission or any witness testifying under oath that is relevant to the application and investigation of the applicant is immune from civil liability for libel, slander, or any other tort.

338.3633 Promoter's license; application; good moral character; bond; fees; submission of contract; deposit of money; disclosure of contract; drug test results.

Sec. 33. (1) An application for a promoter's license must be in writing and correctly show and define the applicant.

(2) An applicant for a promoter's license must demonstrate good moral character. If an applicant for a promoter's license is denied a license due to lack of good moral character, the applicant may petition the commission for a review of the decision under section 46.

(3) Before an approval for a boxing contest or exhibition is granted, a promoter must file a bond with the department in an amount fixed by the department but not less than $20,000.00, executed by the applicant as principal and by a corporation qualified under the laws of this state as surety, payable to the state of Michigan, and conditioned upon the faithful performance by the applicant of the provisions of this act. The department shall annually adjust the amount of the bond based upon the Detroit consumer price index. The bond must be purchased not less than 5 days before the contest or exhibition and may be used to satisfy payment for the professionals, costs to the department for ring officials and physicians, and drug tests.

(4) A promoter must apply for and obtain an annual license from the department in order to present a program of boxing contests or exhibitions. The annual license fee is $250.00. The department shall request, and the applicant shall provide, such information as it determines necessary to ascertain the financial stability of the applicant.

(5) The promoter must pay an event fee of $125.00.

(6) There is imposed a regulatory and enforcement fee upon the promoter to assure the integrity of the sport, the public interest, and the welfare and safety of the professionals in the amount of 3% of the total gross receipts from the sale, lease, or other exploitation of broadcasting, television, and motion picture rights, but not to exceed $25,000.00 per contract, for events to which the following apply:

(a) The event is located in a venue with a seating capacity of over 5,000.

(b) The promoter proposes to televise or broadcast the event over any medium for viewing by spectators not present in the venue.

(c) The event is designed to promote professional contests in this state.

(7) At least 10 days before the event, the promoter shall submit the contract subject to the regulatory and enforcement fee to the department, stating the amount of the probable total gross receipts from the sale, lease, or other exploitation of broadcasting, television, and motion picture rights.

(8) The money derived from the regulatory and enforcement fee shall be deposited into the Michigan boxing fund created in section 22 and used for the purposes described in that section.

(9) A promoter shall, within 5 business days before a boxing contest or exhibition, convey to the department an executed copy of the contract relative to the boxing contest or exhibition. The copy of the contract is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except that the department may disclose statistical information on the number, types, and amounts of contracts so long as information regarding identifiable individuals or categories is not revealed.

(10) Beginning the effective date of the amendatory act that added this subsection, a promoter's license is subject to revocation unless at least 10% of the purse in a contest or exhibition is withheld or escrowed until such time as the results of the postcontest drug test, as required by this act, are available to the department. If the drug test results confirm or demonstrate compliance with this act, the department shall issue an order allowing the promoter to forward to the professional the amount withheld or escrowed. If the results do not confirm or demonstrate compliance with this act, the department shall serve a formal complaint on the professional under section 44(2), and the department shall issue an order to the promoter requiring the promoter to forward the amount withheld or

escrowed to the department. Upon receipt, the department shall deposit the money into the fund. If after a hearing the professional is found in violation of the act, the professional shall forfeit the amount withheld from the purse and the professional is subject to the penalties prescribed in section 48. However, if the formal complaint is dismissed or any final order issued as the result of the complaint is overturned, the department shall issue a refund to the professional for the amount withheld.

(11) Subsection (10) does not prohibit a licensed promoter from including a provision in a contract with a professional that requires the promoter to withhold 10% of the purse in a contest or exhibition until such time as the postcontest drug test results are available to the department.

338.3634 Rules; determination of applicant's financial stability; presence of applicant at commission meeting.

Sec. 34. (1) The director, in consultation with the commission, may promulgate rules for the application and approval process for promoters. Until the rules are promulgated, the applicant shall comply with the standards described in subsection (2).

(2) The rules regarding the application process shall include at least the following:

(a) An initial application processing fee sufficient to cover the costs of processing, but not less than $250.00.

(b) A requirement that background information be disclosed by the applicant who is an individual or by the principal officers or members and individuals having at least a 10% ownership interest in the case of any other legal entity, with emphasis on the applicant's business experience.

(c) Information from the applicant concerning past and present civil lawsuits, judgments, and filings under the bankruptcy code that are not more than 7 years old.

(d) Any other relevant and material information considered necessary by the director upon consultation with the commission.

(3) The department may consult with the commission on issues related to the determination of an applicant's financial stability and shall refer the application to the commission if clear and convincing grounds for approval of the financial stability aspect of the application do not exist.

(4) As part of the approval process for promoters, the commission may require the applicant or his or her representative to be present at a commission meeting in which the application is considered.

338.3647 Action against license; rules; seat; final decision-making authority.

Sec. 47. (1) The department shall initiate an action under this chapter against an applicant or take any other allowable action against the license of any contestant, promoter, or other participant who the department determines has done any of the following:

(a) Enters into a contract for a boxing contest or exhibition in bad faith.

(b) Participates in any sham or fake boxing contest or exhibition.

(c) Participates in a boxing contest or exhibition pursuant to a collusive understanding or agreement in which the contestant competes or terminates the boxing contest or exhibition in a manner that is not based upon honest competition or the honest exhibition of the skill of the contestant.

(d) Is determined to have failed to give his or her best efforts, failed to compete honestly, or failed to give an honest exhibition of his or her skills in a boxing contest or exhibition.

(e) Is determined to have performed an act or engaged in conduct that is detrimental to a boxing contest or exhibition including, but not limited to, any foul or unsportsmanlike conduct in connection with a boxing contest or exhibition.

(f) Gambles on the outcome of a boxing contest or exhibition in which he or she is a contestant, promoter, matchmaker, ring official, or second.

(g) Assaults another licensee, commission member, or department employee while not involved in or while outside the normal course of a boxing contest or exhibition.

(h) Practices fraud or deceit in obtaining a license.

(2) The department, in consultation with the commission, shall promulgate rules to provide for both of the following:

(a) The timing of drug tests for contestants.

(b) Specific summary suspension procedures for boxing contestants and participants who test positive for drugs or fail to submit to a drug test, under section 48(4). The rules shall include the following:

(*i*) A procedure to allow the department to place the licensee upon the national suspension list.

(*ii*) An expedited appeal process for the summary suspension.

(*iii*) A relicensing procedure following summary suspension.

(3) An employee of the department must be present at all weigh-ins, medical examinations, contests, exhibitions, and matches to ensure that this act and rules are strictly enforced.

(4) Each promoter shall furnish each member of the commission present at a boxing contest or exhibition a seat in the area immediately adjacent to the boxing contest or exhibition. An additional seat shall be provided in the venue.

(5) The commission chair, a commission member assigned by the chair, or a department official designated by the commission chair shall have final authority involving any conflict at a contest, exhibition, or match and shall advise the chief inspector in charge accordingly. In the absence of the chair, an assigned member, or a department official designated by the commission chair, the chief inspector in charge shall be the final decision-making authority.

338.3648 Reinstatement; fine; penalties; grounds for summary suspension.

Sec. 48. (1) Upon receipt of an application for reinstatement and the payment of an administrative fine prescribed by the commission, the commission may reinstate a revoked license or lift a suspension. If disciplinary action is taken against a person under this act that does not relate to a boxing contest or exhibition, the commission may, in lieu of suspending or revoking a license, prescribe an administrative fine not to exceed $10,000.00. If disciplinary action is taken against a person under this act that relates to the preparation for a boxing contest or an exhibition, the occurrence of a boxing contest or an exhibition, or any other action taken in conjunction with a boxing contest or an exhibition, the commission may prescribe an administrative fine in an amount not to exceed 100% of the share of the purse to which the holder of the license is entitled for the contest or exhibition or an administrative fine not to exceed $100,000.00 in the case of any other

person. This administrative fine may be imposed in addition to, or in lieu of, any other disciplinary action that is taken against the person by the commission.

(2) If an administrative fine is imposed under this section, the commission may recover the costs of the proceeding, including investigative costs and attorney fees. The department or the attorney general may bring an action in a court of competent jurisdiction to recover any administrative fines, investigative and other allowable costs, and attorney fees. The filing of an action to recover fines and costs does not bar the imposition of other sanctions under this act.

(3) An employee of the department, in consultation with any commission member present, may issue an order to withhold the purse for 3 business days due to a violation of this act or a rule promulgated under this act. During that 72-hour time period, the commission may convene a special meeting to determine if the action of the employee of the department was warranted. If the commission determines that the action was warranted, the department shall offer to hold an administrative hearing as soon as practicable but within at least 7 calendar days.

(4) A professional or participant in a professional boxing contest or exhibition shall submit to a postexhibition test of body fluids to determine the presence of controlled substances, prohibited substances, or enhancers. The department shall promulgate rules to set requirements regarding preexhibition tests of body fluids to determine the presence of controlled substances, prohibited substances, or enhancers.

(5) The promoter is responsible for the cost of the testing performed under this section.

(6) Either of the following is grounds for summary suspension of the individual's license in the manner provided for in section 42:

(a) A test resulting in a finding of the presence of controlled substances, enhancers, or other prohibited substances as determined by rule of the commission.

(b) The refusal or failure of a contestant to submit to the drug testing ordered by an authorized person.

338.3654 Unofficial scoring; completion of standardized evaluation sheet by licensee.

Sec. 54. (1) In addition to the requirements of section 53, a person seeking a license as a professional judge shall score, unofficially, not fewer than 200 rounds of professional boxing. In order to fulfill the requirements of this subsection, an applicant shall only unofficially judge contests that are approved by the commission for that purpose. An applicant shall not receive compensation for judging boxing contests or exhibitions under this subsection. Scorecards shall be transmitted to the department and the commission for review and evaluation.

(2) An employee authorized by the department or the commission shall complete a standardized evaluation sheet for each boxing contest or exhibition judged by a licensee. The commission shall annually review the evaluation sheets. A commission member attending a boxing contest or exhibition may also submit to the department a standardized evaluation sheet.

This act is ordered to take immediate effect.
Approved June 23, 2005.
Filed with Secretary of State June 23, 2005.

[No. 50]

(HB 4551)

AN ACT to amend 1972 PA 230, entitled "An act to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation," (MCL 125.1501 to 125.1531) by adding section 13e.

The People of the State of Michigan enact:

125.1513e Sharing elevator between 2 buildings.

Sec. 13e. This act does not prohibit the sharing of an elevator between 2 buildings as long as the buildings are in compliance with this act, the code, and the following acts and rules promulgated under those acts:

(a) The fire prevention code, 1941 PA 207, MCL 29.1 to 29.34.

(b) 1976 PA 333, MCL 338.2151 to 338.2160.

(c) 1967 PA 227, MCL 408.801 to 408.824.

(d) Any other act or rules regulating elevators in buildings.

This act is ordered to take immediate effect.
Approved June 23, 2005.
Filed with Secretary of State June 23, 2005.

[No. 51]

(HB 4613)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 8801 (MCL 600.8801), as amended by 2000 PA 80.

The People of the State of Michigan enact:

600.8801 Applicability of chapter; definitions.

Sec. 8801. (1) This chapter applies only to a state civil infraction action involving a violation of state law that is designated as a state civil infraction.

(2) This chapter does not apply to a civil infraction action involving a traffic or parking violation.

(3) As used in this chapter:

(a) "Citation" means a written complaint or notice to appear in court upon which a law enforcement officer records the occurrence or existence of 1 or more state civil infractions by the person cited.

(b) "Civil infraction determination" means a determination that a defendant is responsible for a state civil infraction by 1 of the following:

(*i*) An admission of responsibility for the state civil infraction.

(*ii*) An admission of responsibility for the state civil infraction, "with explanation".

(*iii*) A preponderance of the evidence at an informal hearing or formal hearing on the question under section 8819 or 8821, respectively.

(*iv*) A default judgment, for failing to appear as directed by a citation or other notice, at a scheduled appearance under section 8815(3)(b) or (4), at an informal hearing under section 8819, or at a formal hearing under section 8821.

(c) "Law enforcement officer" means any of the following:

(*i*) A sheriff or deputy sheriff.

(*ii*) An officer of the police department of a city, village, or township, or the marshal of a city, village, or township.

(*iii*) An officer of the Michigan state police.

(*iv*) A conservation officer.

(*v*) A security employee employed by the state pursuant to section 6c of 1935 PA 59, MCL 28.6c.

(*vi*) A motor carrier officer appointed pursuant to section 6d of 1935 PA 59, MCL 28.6d.

(*vii*) A public safety officer employed by a university as authorized by either of the following:

(A) 1965 PA 278, MCL 390.711 to 390.717.

(B) 1990 PA 120, MCL 390.1511 to 390.1514.

(*viii*) If authorized by the governing body of a political subdivision, a constable of the political subdivision.

(*ix*) A park and recreation officer commissioned pursuant to section 1606 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1606.

(*x*) A state forest officer commissioned pursuant to section 83107 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.83107.

(*xi*) An officer, employee, or agent of the department of agriculture enforcing, pursuant to authority granted by the director of agriculture, a statute administered, a rule promulgated, or an order issued by the department of agriculture or the director of agriculture.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless 1 or both of the following bills of the 93rd Legislature are enacted into law:

(a) House Bill No. 4560.

(b) House Bill No. 4562.

This act is ordered to take immediate effect.
Approved June 27, 2005.
Filed with Secretary of State June 27, 2005.

Compiler's note: House Bill No. 4560, referred to in enacting section 1, was filed with the Secretary of State June 27, 2005, and became 2005 PA 52, Imd. Eff. June 27, 2005.

House Bill No. 4562, also referred to in enacting section 1, was filed with the Secretary of State June 27, 2005, and became 2005 PA 53, Imd. Eff. June 27, 2005.

[No. 52]

(HB 4560)

AN ACT to amend 1945 PA 72, entitled "An act to prevent the importation from other states, and the spread within this state, of all serious insect pests and contagious plant diseases and to provide for their repression and control, imposing certain powers and duties on the commissioner of agriculture; to prescribe penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts," by amending the title and section 9 (MCL 286.259) and by adding section 10.

The People of the State of Michigan enact:

TITLE

An act to prevent the importation from other states, and the spread within this state, of all serious insect pests and contagious plant diseases and to provide for their repression and control, imposing certain powers and duties on the commissioner of agriculture; to prescribe penalties and civil sanctions; and to provide remedies.

286.259 Violation of act; misdemeanor; penalty; applicability of subsection (1).

Sec. 9. (1) Subject to subsection (2), a person who maintains a public nuisance in violation of section 3 or otherwise violates this act is guilty of a misdemeanor punishable by a fine of not less than $25.00 or more than $100.00 or by imprisonment for not more than 90 days, or both.

(2) Beginning September 1, 2005, subsection (1) does not apply to a violation described in section 10.

286.260 Violation of rule or order; civil infraction; fine; misdemeanor; felony; penalties; liability.

Sec. 10. (1) A person who violates a rule promulgated or order issued under this act that requires the destruction of plants is responsible for a state civil infraction and shall be fined not more than $1,000.00 plus expenses incurred by the department in destroying the plants.

(2) A person who violates a quarantine rule promulgated or quarantine order issued under this act is responsible for a state civil infraction and shall be fined not less than $1,000.00 or more than $10,000.00. However, if the person voluntarily reported the violation to the department before it was otherwise known to the department or the

person had reason to believe the violation was about to become known to the department, the person shall be fined not more than $500.00.

(3) Beginning September 1, 2005, a person who knowingly violates a quarantine rule promulgated or quarantine order issued under this act is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than $1,000.00 or more than $10,000.00.

(4) Beginning September 1, 2005, a person who intentionally violates a quarantine rule promulgated or quarantine order issued under this act, for the purpose of causing damage to plants, natural resources, or agricultural, silvicultural, or horticultural products or resources, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $250,000.00, or both.

(5) A person who violates a quarantine rule promulgated or quarantine order issued under this act is liable for any damages to plants, natural resources, or agricultural, silvicultural, or horticultural products or resources resulting from the violation, including, but not limited to, costs incurred to investigate, monitor, prevent, or minimize such damages.

This act is ordered to take immediate effect.
Approved June 27, 2005.
Filed with Secretary of State June 27, 2005.

[No. 53]

(HB 4562)

AN ACT to amend 1931 PA 189, entitled "An act to regulate the sale and distribution of nursery stock, plants, and plant products; to prevent the introduction into and the dissemination within this state of insect pests and plant diseases; to provide for the destruction and control of insect pests and plant diseases; to provide for the destruction of certain plants by owners of certain fruit trees; to provide for license and to provide for inspection; and imposing certain powers and duties on the director of agriculture; to provide for the promulgation of rules; and to prescribe penalties," (MCL 286.201 to 286.226) by amending the title, as amended by 1984 PA 88, and by adding section 28.

The People of the State of Michigan enact:

TITLE

An act to regulate the sale and distribution of nursery stock, plants, and plant products; to prevent the introduction into and the dissemination within this state of insect pests and plant diseases; to provide for the destruction and control of insect pests and plant diseases; to provide for the destruction or treatment of certain plants or plant products; to provide for license and to provide for inspection; and imposing certain powers and duties on the director of agriculture; to provide for the promulgation of rules; to prescribe penalties and civil sanctions; and to provide remedies.

286.228 Violation of certain laws, rules, or orders; civil infraction; fines; limitation; misdemeanor; felony; liability; "person" defined; applicability.

Sec. 28. (1) A person, other than a person who is required to be licensed under this act, who violates section 20 or an order issued under section 20 is responsible for a state civil

infraction and shall be fined not more than $1,000.00 plus expenses incurred by the department in abating the nuisance.

(2) If a person who is required to be licensed under this act violates section 20 or an order issued under this section 20, the director shall impose on the person an administrative fine of not more than $1,000.00 plus expenses incurred by the department in abating the nuisance.

(3) A person, other than a person who is required to be licensed under this act, who violates section 23 or a rule promulgated or regulation issued under section 23, or who violates section 18(b) or a permit issued under section 18(b) with respect to an insect pest or plant disease that is the basis of a quarantine imposed by the director or the United States department of agriculture, is responsible for a state civil infraction and shall be fined not less than $1,000.00 or more than $10,000.00. However, if the person voluntarily reported the violation to the department before it was otherwise known to the department or the person had reason to believe the violation was about to become known to the department, the person shall be fined not more than $500.00.

(4) If a person who is required to be licensed under this act violates section 23 or a rule promulgated or regulation issued under section 23, or violates section 18(b) or a permit issued under section 18(b) with respect to an insect pest or plant disease that is the basis of a quarantine imposed by the director or the United States department of agriculture, the director shall impose on the person an administrative fine of not less than $1,000.00 or more than $10,000.00. However, if the person voluntarily reported the violation to the department before it was otherwise known to the department or the person had reason to believe the violation was about to become known to the department, the director shall impose on the person an administrative fine of not more than $500.00.

(5) Beginning September 1, 2005, a person who knowingly violates section 23 or an order issued or rule promulgated under section 23, or who knowingly violates section 18(b) or a permit issued under section 18(b) with respect to an insect pest or plant disease that is the basis of a quarantine imposed by the director or the United States department of agriculture, is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than $1,000.00 or more than $10,000.00.

(6) Beginning September 1, 2005, a person who intentionally violates section 23 or an order issued or rule promulgated under section 23, or who intentionally violates section 18(b) or a permit issued under section 18(b) with respect to an insect pest or plant disease that is the basis of a quarantine imposed by the director or the United States department of agriculture, for the purpose of causing damage to plants, plant products, natural resources, or agricultural, silvicultural, or horticultural products or resources, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $250,000.00, or both.

(7) A person who violates section 23 or a rule promulgated or order issued under section 23, or who violates section 18(b) or a permit issued under section 18(b) with respect to an insect pest or plant disease that is the basis of a quarantine imposed by the director or the United States department of agriculture, is liable for any damages to plants, plant products, natural resources, or agricultural, silvicultural, or horticultural products or resources resulting from the violation, including, but not limited to, costs incurred to investigate, monitor, prevent, or minimize such damages.

(8) As used in this section, "person" means that term as defined in section 16a.

(9) Beginning September 1, 2005, violations described in this section are not subject to section 24 or 26.

This act is ordered to take immediate effect.

Approved June 27, 2005.

Filed with Secretary of State June 27, 2005.

[No. 54]

(HB 4567)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 12m of chapter XVII (MCL 777.12m), as amended by 2002 PA 421.

The People of the State of Michigan enact:

CHAPTER XVII

777.12m Chapters 285 to 289; felonies.

Sec. 12m. This chapter applies to the following felonies enumerated in chapters 285 to 289 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
285.83	Pub trst	H	Grain dealers act violations	5
285.279(2)(c)	Property	E	False pretenses under Michigan family farm development act involving $1,000 to $20,000 or with prior convictions	5
285.279(2)(d)	Property	D	False pretenses under Michigan family farm development act involving $20,000 or more or with prior convictions	10
286.228(6)	Pub ord	E	Insect pest and plant disease — intentional violation with intent to damage natural resources	5
286.260(4)	Pub ord	E	Insect pest and plant disease — intentional violation with intent to damage natural resources	5

286.455(2)	Pub saf	G	Agriculture — hazardous substance	5
286.929(4)	Pub trst	G	Organic products act violations	4
287.323(1)	Person	C	Dangerous animal causing death	15
287.323(2)	Person	G	Dangerous animal causing serious injury	4
287.679	Pub ord	H	Dead animals — third or subsequent violation	1
287.744(1)	Pub ord	G	Animal industry act violations	5
287.855	Pub saf	G	Agriculture — contaminating livestock/false statement/ violation of quarantine	5
287.967(5)	Pub ord	G	Cervidae producer violations	4
289.5107(2)	Pub saf	F	Adulterated, misbranded, or falsely identified food	4

Effective date.

Enacting section 1. This amendatory act takes effect September 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) House Bill No. 4560.

(b) House Bill No. 4562.

This act is ordered to take immediate effect.
Approved June 27, 2005.
Filed with Secretary of State June 27, 2005.

Compiler's note: House Bill No. 4560, referred to in enacting section 2, was filed with the Secretary of State June 27, 2005, and became 2005 PA 52, Imd. Eff. June 27, 2005.

House Bill No. 4562, also referred to in enacting section 2, was filed with the Secretary of State June 27, 2005, and became 2005 PA 53, Imd. Eff. June 27, 2005.

[No. 55]

(HB 4444)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 9101, 9105, 9106, 9110, and 9113 (MCL 324.9101, 324.9105, 324.9106, 324.9110, and 324.9113), section 9101 as amended by 2001 PA 227 and sections 9105, 9106, 9110, and 9113 as amended by 2000 PA 504.

The People of the State of Michigan enact:

324.9101 Definitions; A to W.

Sec. 9101. (1) "Agricultural practices" means all land farming operations except the plowing or tilling of land for the purpose of crop production or the harvesting of crops.

(2) "Authorized public agency" means a state agency or an agency of a local unit of government authorized under section 9110 to implement soil erosion and sedimentation control procedures with regard to earth changes undertaken by it.

(3) "Conservation district" means a conservation district authorized under part 93.

(4) "Consultant" means either of the following:

(a) An individual who has a current certificate of training under section 9123.

(b) A person who employs 1 or more individuals who have current certificates of training under section 9123.

(5) "County agency" means an officer, board, commission, department, or other entity of county government.

(6) "County enforcing agency" means a county agency or a conservation district designated by a county board of commissioners under section 9105.

(7) "County program" or "county's program" means a soil erosion and sedimentation control program established under section 9105.

(8) "Department" means the department of environmental quality.

(9) "Earth change" means a human-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state. Earth change does not include the practice of plowing and tilling soil for the purpose of crop production.

(10) "Gardening" means activities necessary to the growing of plants for personal use, consumption, or enjoyment.

(11) "Local ordinance" means an ordinance enacted by a local unit of government under this part providing for soil erosion and sedimentation control.

(12) "Municipal enforcing agency" means an agency designated by a municipality under section 9106 to enforce a local ordinance.

(13) "Municipality" means any of the following:

(a) A city.

(b) A village.

(c) A charter township.

(d) A general law township that is located in a county with a population of 200,000 or more.

(14) "Rules" means the rules promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(15) "Seawall maintenance" means an earth change activity landward of the seawall.

(16) "Sediment" means solid particulate matter, including both mineral and organic matter, that is in suspension in water, is being transported, or has been removed from its site of origin by the actions of wind, water, or gravity and has been deposited elsewhere.

(17) "Soil erosion" means the wearing away of land by the action of wind, water, gravity, or a combination of wind, water, or gravity.

(18) "State agency" means a principal state department or a state public university.

(19) "Violation of this part" or "violates this part" means a violation of this part, the rules promulgated under this part, a permit issued under this part, or a local ordinance enacted under this part.

(20) "Waters of the state" means the Great Lakes and their connecting waters, inland lakes and streams as defined in rules promulgated under this part, and wetlands regulated under part 303.

324.9105 Administration and enforcement of rules; resolution; ordinance; interlocal agreement; review; notice of results; informal meeting; probation; consultant; inspection fees; rescission of order, stipulation, or probation.

Sec. 9105. (1) Subject to subsection (6), a county is responsible for the administration and enforcement of this part and the rules promulgated under this part throughout the county except as follows:

(a) Within a municipality that has assumed the responsibility for soil erosion and sedimentation control under section 9106.

(b) With regard to earth changes of authorized public agencies.

(2) Subject to subsection (3), the county board of commissioners of each county, by resolution, shall designate a county agency, or a conservation district upon the concurrence of the conservation district, as the county enforcing agency responsible for administration and enforcement of this part and the rules promulgated under this part in the name of the county. The resolution may set forth a schedule of fees for inspections, plan reviews, and permits and may set forth other matters relating to the administration and enforcement of the county program and this part and the rules promulgated under this part.

(3) In lieu of or in addition to a resolution provided for in subsection (2), the county board of commissioners of a county may provide by ordinance for soil erosion and sedimentation control in the county. An ordinance adopted under this subsection may be more restrictive than, but shall not make lawful that which is unlawful under, this part and the rules promulgated under this part. If an ordinance adopted under this subsection is more restrictive than this part and the rules promulgated under this part, the county enforcing agency shall notify a person receiving a permit under the ordinance that the ordinance is more restrictive than this part and the rules promulgated under this part. The ordinance shall incorporate by reference the rules promulgated under this part that do not conflict with a more restrictive ordinance and may set forth such other matters as the county board of commissioners considers necessary or desirable. The ordinance may provide penalties for a violation of the ordinance that are consistent with section 9121.

(4) A copy of a resolution or ordinance adopted under this section and all subsequent amendments to the resolution or ordinance shall be forwarded to the department for the department's review and approval. The department shall forward a copy to the conservation district for that county for review and comment.

(5) Two or more counties may provide for joint enforcement and administration of this part and the rules promulgated under this part by entering into an interlocal agreement pursuant to the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(6) The department shall conduct a review of a county's program every 5 years. The review shall be conducted at least 6 months before the expiration of each succeeding 5-year period. The department shall approve a county's program if all of the following conditions are met:

(a) The county has passed a resolution or enacted an ordinance as provided in this section.

(b) The individuals with decision-making authority who are responsible for administering the county program have current certificates of training under section 9123.

(c) The county has effectively administered and enforced the county program in the past 5 years or has implemented changes in its administration or enforcement procedures that the department determines will result in the county effectively administering and enforcing the county program. In determining whether the county has met the requirement of this subdivision, the department shall consider all of the following:

(*i*) Whether a mechanism is in place to provide funding to administer the county's program.

(*ii*) Whether the county has conducted adequate inspections to assure minimization of soil erosion and off-site sedimentation.

(*iii*) The effectiveness of the county's past compliance and enforcement efforts.

(*iv*) The adequacy and effectiveness of the applications and soil erosion and sedimentation control plans being accepted by the county.

(*v*) The adequacy and effectiveness of the permits issued by the county and the inspections being performed by the county.

(*vi*) The conditions at construction sites under the jurisdiction of the county as documented by departmental inspections.

(7) Following a review under subsection (6), the department shall notify the county of the results of its review and whether the department proposes to approve or disapprove the county's program. Within 30 days of receipt of the notice under this subsection, a county may request and the department shall hold an informal meeting to discuss the review and the proposed action by the department.

(8) Following the meeting under subsection (7), if requested, and consideration of the review under subsection (6), if the department does not approve a county's program, the department shall enter an order, stipulation, or consent agreement under section 9112(7) placing the county on probation. In addition, at any time that the department determines that a county that was previously approved by the department under subsection (6) is not satisfactorily administering and enforcing the county's program, the department shall enter into an order, stipulation, or consent agreement under section 9112(7) placing the county on probation. During the 6-month period after a county is placed on probation, the department shall consult with the county on how the county could change its administration of the county program in a manner that would result in its approval.

(9) Within 6 months after a county has been placed on probation under subsection (8), the county may notify the department that it intends to hire a consultant to administer the county's program. If, within 60 days after notifying the department, the county hires a consultant that is acceptable to the department, then within 1 year after the county hires the consultant, the department shall conduct a review of the county's program to determine whether or not the county program can be approved.

(10) If any of the following occur, the department shall hire a consultant to administer the county's program:

(a) The county does not notify the department of its intent to hire a consultant under subsection (9).

(b) The county does not hire a consultant that is acceptable to the department within 60 days after notifying the department of its intent to hire a consultant under subsection (9).

(c) The county remains unapproved following the department's review under subsection (9).

(11) Upon hiring a consultant under subsection (10), the department may establish a schedule of fees for inspections, review of soil erosion and sedimentation control plans, and permits for the county's program that will provide sufficient revenues to pay for the cost of the contract with the consultant, or the department may bill the county for the cost of the contract with the consultant. As used in this subsection, "cost of the contract" means the actual cost of a contract with a consultant plus the documented costs to the department in administering the contract, but not to exceed 10% of the actual cost of the contract.

(12) At any time that a county is on probation as provided for in this section, the county may request the department to conduct a review of the county's program. If, upon such review, the county has implemented appropriate changes to the county's program, the department shall approve the county's program. If the department approves a county's program under this subsection, the department shall rescind its order, stipulation, or consent agreement that placed the county on probation.

324.9106 Ordinances.

Sec. 9106. (1) Subject to subsection (3), a municipality by ordinance may provide for soil erosion and sedimentation control on public and private earth changes within its boundaries except that a township ordinance shall not be applicable within a village that has in effect such an ordinance. An ordinance may be more restrictive than, but shall not make lawful that which is unlawful under, this part and the rules promulgated under this part. If an ordinance adopted under this section is more restrictive than this part and the rules promulgated under this part, the municipal enforcing agency shall notify a person receiving a permit under the ordinance that the ordinance is more restrictive than this part and the rules promulgated under this part. The ordinance shall incorporate by reference the rules promulgated under this part that do not conflict with a more restrictive ordinance, shall designate a municipal enforcing agency responsible for administration and enforcement of the ordinance, and may set forth such other matters as the legislative body considers necessary or desirable. The ordinance shall be applicable and shall be enforced with regard to all private and public earth changes within the municipality except earth changes by an authorized public agency. The municipality may consult with a conservation district for assistance or advice in the preparation of the ordinance. The ordinance may provide penalties for a violation of the ordinance that are consistent with section 9121.

(2) An ordinance related to soil erosion and sedimentation control that is not approved by the department as conforming to the minimum requirements of this part and the rules promulgated under this part has no force or effect. A municipality shall submit a copy of its proposed ordinance or of a proposed amendment to its ordinance to the department for approval before adoption. The department shall forward a copy to the county enforcing agency of the county in which the municipality is located and the appropriate conservation district for review and comment. Within 90 days after the department receives an existing ordinance, proposed ordinance, or amendment, the department shall notify the clerk of the municipality of its approval or disapproval along with recommendations for revision if the ordinance, proposed ordinance, or amendment does not conform to the minimum requirements of this part or the rules promulgated under this part. If the department does not notify the clerk of the local unit within the 90-day period, the ordinance, proposed ordinance, or amendment shall be considered to have been approved by the department.

(3) A municipality shall not administer and enforce this part or the rules promulgated under this part or a local ordinance unless the department has approved the municipality. An approval under this section is valid for 5 years, after which the department shall review the municipality for reapproval. At least 6 months before the expiration of each

succeeding 5-year approval period, the department shall complete a review of the municipality for reapproval. The department shall approve a municipality if all of the following conditions are met:

(a) The municipality has enacted an ordinance as provided in this section that is at least as restrictive as this part and the rules promulgated under this part.

(b) The individuals with decision-making authority who are responsible for administering the soil erosion and sedimentation control program for the municipality have current certificates of training under section 9123.

(c) The municipality has submitted evidence of its ability to effectively administer and enforce a soil erosion and sedimentation control program. In determining whether the municipality has met the requirements of this subdivision, the department shall consider all of the following:

(*i*) Whether a mechanism is in place to provide funding to administer the municipality's soil erosion and sedimentation control program.

(*ii*) The adequacy of the documents proposed for use by the municipality including, but not limited to, application forms, soil erosion and sedimentation control plan requirements, permit forms, and inspection reports.

(*iii*) If the municipality has previously administered a soil erosion and sedimentation control program, whether the municipality effectively administered and enforced the program in the past or has implemented changes in its administration or enforcement procedures that the department determines will result in the municipality effectively administering and enforcing a soil erosion and sedimentation control program in compliance with this part and the rules promulgated under this part. In determining whether the municipality has met the requirement of this subparagraph, the department shall consider all of the following:

(A) Whether the municipality has had adequate funding to administer the municipality's soil erosion and sedimentation control program.

(B) Whether the municipality has conducted adequate inspections to assure minimization of soil erosion and off-site sedimentation.

(C) The effectiveness of the municipality's past compliance and enforcement efforts.

(D) The adequacy and effectiveness of the applications and soil erosion and sedimentation control plans being accepted by the municipality.

(E) The adequacy and effectiveness of the permits issued by the municipality and the inspections being performed by the municipality.

(F) The conditions at construction sites under the jurisdiction of the municipality as documented by departmental inspections.

(4) If the department determines that a municipality is not approved under subsection (3) or that a municipality that was previously approved under subsection (3) is not satisfactorily administering and enforcing this part and the rules promulgated under this part, the department shall enter an order, stipulation, or consent agreement under section 9112(7) denying the municipality authority or revoking the municipality's authority to administer a soil erosion and sedimentation control program. Upon entry of this order, stipulation, or consent agreement, the county program for the county in which the municipality is located becomes operative within the municipality.

(5) A municipality that elects to rescind its ordinance shall notify the department. Upon rescission of its ordinance, the county program for the county in which the municipality is located becomes operative within the municipality.

(6) A municipality that rescinds its ordinance or is not approved by the department to administer the program shall retain jurisdiction over projects under permit at that time. The municipality shall retain jurisdiction until the projects are completed and stabilized or the county agrees to assume jurisdiction over the permitted earth changes.

324.9110 Designation as authorized public agency; application; submission of procedures; variance; approval.

Sec. 9110. (1) Subject to subsection (4), a state agency or an agency of a local unit of government may apply to the department for designation as an authorized public agency by submitting to the department the soil erosion and sedimentation control procedures governing all earth changes normally undertaken by the agency. If the applicant is an agency of a local unit of government, the department shall submit the procedures to the county enforcing agency and the appropriate conservation district for review. The county enforcing agency and the conservation district shall submit their comments on the procedures to the department within 60 days. If the applicant is a state agency, the department shall submit the procedures to the department of agriculture for review, and the department of agriculture shall submit its comments on the procedures to the department within 60 days.

(2) Subject to subsection (4), if the department finds that the soil erosion and sedimentation control procedures of the state agency or the agency of the local unit of government meet the requirements of this part and rules promulgated under this part, the department shall designate the agency as an authorized public agency.

(3) Subject to subsection (4), after approval of the procedures and designation as an authorized public agency pursuant to subsection (2), all earth changes maintained or undertaken by the authorized public agency shall be undertaken pursuant to the approved procedures. If determined necessary by the department and upon request of an authorized public agency, the department may grant a variance from the provisions of this subsection.

(4) A state agency or an agency of a local unit of government shall not administer and enforce this part and the rules promulgated under this part as an authorized public agency unless the department has approved the agency under this section. An approval under this section is valid for 5 years, after which the department shall review the agency for reapproval. At least 6 months before the expiration of each succeeding 5-year period, the department shall complete a review of the authorized public agency for reapproval. The department shall approve a state agency or an agency of a local unit of government if all of the following conditions are met:

(a) The agency has adopted soil erosion and sedimentation control procedures that are at least as restrictive as this part and the rules promulgated under this part.

(b) The individuals with decision-making authority who are responsible for administering the soil erosion and sedimentation control procedures have current certificates of training under section 9123.

(c) The agency has submitted evidence of its ability to effectively administer soil erosion and sedimentation control procedures. In determining whether the agency has met the requirement of this subdivision, the department shall consider all of the following:

(*i*) Funding to administer the agency's soil erosion and sedimentation control program.

(*ii*) The agency's plans for inspections to assure minimization of soil erosion and off-site sedimentation.

(*iii*) The adequacy of the agency's soil erosion and sedimentation control procedures.

(*iv*) If the agency has previously administered soil erosion and sedimentation control procedures, the agency has effectively administered these procedures or has implemented changes in their administration that the department determines will result in the agency effectively administering the soil erosion and sedimentation control procedures. In determining whether the agency has met the requirement of this subparagraph, the department shall consider all of the following:

(A) Whether the agency has had adequate funding to administer the agency's soil erosion and sedimentation control program.

(B) Whether the agency has conducted adequate inspections to assure minimization of soil erosion and off-site sedimentation.

(C) The effectiveness of the agency's past compliance and enforcement efforts.

(D) The adequacy of the agency's soil erosion and sedimentation control plans and procedures as required by rule.

(E) The conditions at construction sites under the jurisdiction of the agency as documented by departmental inspections.

(5) If the department determines that a state agency or an agency of a local unit of government is not approved under subsection (4) or that a state agency or an agency of a local unit of government that was previously approved under subsection (4) is not satisfactorily administering and enforcing this part and the rules promulgated under this part, the department shall enter an order, stipulation, or consent agreement under section 9112(7) denying or revoking the designation of the state agency or agency of a local unit of government as an authorized public agency.

324.9113 Injunction; inspection and investigation.

Sec. 9113. (1) Notwithstanding the existence or pursuit of any other remedy, the department or a county enforcing agency or municipal enforcing agency may maintain an action in its own name in a court of competent jurisdiction for an injunction or other process against a person to restrain or prevent violations of this part.

(2) At any reasonable time, an agent appointed by the department, a county enforcing agency, or a municipal enforcing agency may enter upon any private or public property for the purpose of inspecting and investigating conditions or practices that may be in violation of this part. However, an investigation or inspection under this subsection shall comply with the United States constitution and the state constitution of 1963.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 282 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved June 30, 2005.
Filed with Secretary of State June 30, 2005.

Compiler's note: Senate Bill No. 282, referred to in enacting section 1, was filed with the Secretary of State June 30, 2005, and became 2005 PA 56, Imd. Eff. June 30, 2005.

[No. 56]

(SB 282)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 9115a.

The People of the State of Michigan enact:

324.9115a Earth change activities not requiring permit; violations.

Sec. 9115a. (1) A residential property owner who causes the following activities to be conducted on individual residential property owned and occupied by him or her is not required to obtain a permit under this part if the earth change activities do not result in or contribute to soil erosion or sedimentation of the waters of the state or a discharge of sediment off-site:

(a) An earth change of a minor nature that is stabilized within 24 hours of the initial earth disturbance.

(b) Gardening, if the natural elevation of the area is not raised.

(c) Post holes for fencing, decks, utility posts, mailboxes, or similar applications, if no additional grading or earth change occurs for use of the post holes.

(d) Removal of tree stumps, shrub stumps, or roots resulting in an earth change not to exceed 100 square feet.

(e) All of the following activities, if soil erosion and sedimentation controls are implemented, the earth change is stabilized within 24 hours of the initial earth disturbance, and soil erosion or sedimentation to adjacent properties or the waters of the state has not or will not reasonably occur:

(*i*) Planting of trees, shrubs, or other similar plants.

(*ii*) Seeding or reseeding of lawns of less than 1 acre if the seeded area is at least 100 feet from the waters of the state.

(*iii*) Seeding or reseeding of lawns closer than 100 feet from the waters of the state if the area to be seeded or reseeded does not exceed 100 square feet.

(*iv*) The temporary stockpiling of soil, sand, or gravel not greater than a total of 10 cubic yards on the property if the stockpiling occurs at least 100 feet from the waters of the state.

(*v*) Seawall maintenance that does not exceed 100 square feet.

(2) Exemptions provided in this section shall not be construed as exemptions from enforcement procedures under this part or the rules promulgated under this part if the exempted activities cause or result in a violation of this part or the rules promulgated under this part.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4444 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved June 30, 2005.
Filed with Secretary of State June 30, 2005.

Compiler's note: House Bill No. 4444, referred to in enacting section 1, was filed with the Secretary of State June 30, 2005, and became 2005 PA 55, Imd. Eff. June 30, 2005.

[No. 57]

(SB 73)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 5505 (MCL 324.5505).

The People of the State of Michigan enact:

324.5505 Installation, construction, reconstruction, relocation, alteration, or modification of process or process equipment; permit to install or operate required; rules; trial operation; rules for issuance of general permit or certain exemptions; temporary locations; nonrenewable permits; failure of department to act on applications; appeal of permit actions.

Sec. 5505. (1) Except as provided in subsection (4), a person shall not install, construct, reconstruct, relocate, alter, or modify any process or process equipment without first obtaining from the department a permit to install, or a permit to operate authorized pursuant to rules promulgated under subsection (6) if applicable, authorizing the conduct or activity.

(2) The department shall promulgate rules to establish a permit to install program to be administered by the department. Except as provided in subsections (4) and (5), the permit to install program is applicable to each new or modified process or process equipment that emits or may emit an air contaminant. The start date for emissions offsets eligible to be applied to a permit to install shall be the date established by federal rule or, if a date is not established by federal rule, January 1 of the year after the emissions baseline year used for the purpose of preparing the relevant state implementation plan. The department shall make available information in the permit database and the air emissions inventory established under section 5503(k), to identify emissions reductions that may be used as emissions offsets. This subsection does not authorize the department to seek permit changes to make emissions reductions available for use as emissions offsets.

(3) A permit to install may authorize the trial operation of a process or process equipment to demonstrate that the process or process equipment is operating in compliance with the permit to install issued under this section.

(4) The department may promulgate rules to provide for the issuance of general permits and to exempt certain sources, processes, or process equipment or certain modifications to a source, process, or process equipment from the requirement to obtain a permit to install or a permit to operate authorized pursuant to rules promulgated under subsection (6). However, the department shall not exempt any new source or modification that would meet the definition of a major source or major modification under parts C and D of title I of the clean air act, 42 USC 7470 to 7515.

(5) The department may issue a permit to install, a general permit, or a permit to operate authorized under rules promulgated under subsection (6) if applicable, that authorizes installation, operation, or trial operation, as applicable, of a source, process, or process equipment at numerous temporary locations. Such a permit shall include terms and conditions necessary to assure compliance with all applicable requirements of this part, the rules promulgated under this part, and the clean air act, including those necessary to assure compliance with all applicable ambient air standards, emission limits, and increment and visibility requirements pursuant to part C of title I of the clean air act, 42 USC 7470 to 7492, at each location, and shall require the owner or operator of the process, source, or process equipment to notify the department at least 10 days in advance of each change in location.

(6) The department may promulgate rules to establish a program that authorizes issuance of nonrenewable permits to operate for sources, processes, or process equipment that are not subject to the requirement to obtain a renewable operating permit pursuant to section 5506.

(7) The failure of the department to act on an administratively and technically complete application for a permit to install, a general permit, or a permit to operate authorized under rules promulgated under subsection (6), in accordance with a time requirement established pursuant to this part, rules promulgated under this part, or the clean air act may be treated as a final permit action solely for the purposes of obtaining judicial review in a court of competent jurisdiction to require that action be taken by the department on the application without additional delay.

(8) Any person may appeal the issuance or denial by the department of a permit to install, a general permit, or a permit to operate authorized in rules promulgated under subsection (6), for a new source in accordance with section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. Petitions for review shall be the exclusive means to obtain judicial review of such a permit and shall be filed within 90 days after the final permit action, except that a petition may be filed after that deadline only if the petition is based solely on grounds arising after the deadline for judicial review. Such a petition shall be filed no later than 90 days after the new grounds for review arise. Appeals of permit actions for existing sources are subject to section 5506(14).

This act is ordered to take immediate effect.
Approved June 30, 2005.
Filed with Secretary of State June 30, 2005.

[No. 58]

(SB 551)

AN ACT to amend 2004 PA 591, entitled "An act to amend 1991 PA 179, entitled "An act to regulate and insure the availability of certain telecommunication services; to

prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; to repeal certain acts and parts of acts; and to repeal this act on a specific date," by amending section 213 (MCL 484.2213), as amended by 2000 PA 295; and to repeal acts and parts of acts," by repealing enacting section 1.

The People of the State of Michigan enact:

Repeal of enacting section 1 of 2004 PA 591.

Enacting section 1. Enacting section 1 of 2004 PA 591 is repealed.

This act is ordered to take immediate effect.
Approved June 30, 2005.
Filed with Secretary of State June 30, 2005.

[No. 59]

(HB 4623)

AN ACT to amend 1970 PA 29, entitled "An act relating to potatoes; to create a potato commission; to prescribe its powers and duties and authority; to impose an assessment on the privilege of introducing potatoes into the channels of trade and commerce; to provide for the collection of the assessment; to provide for penalties; and to repeal certain acts and parts of acts," by amending section 2 (MCL 290.422), as amended by 2000 PA 5.

The People of the State of Michigan enact:

290.422 State potato industry commission; creation; appointment, qualifications, and terms of members; vacancies; meetings generally; nominations; chairperson; quorum; conducting business at public meeting; notice of meeting; special meetings; reapportionment of districts; compensation and expenses; handling, use, and disposition of funds; annual fee; gifts and grants; books, records, and accounts; availability of documents to public; borrowing money; assessment of outstanding loans; financial report.

Sec. 2. (1) The state potato industry commission is created within the department. The commission shall be composed of the director or a person designated by the director from the director's staff, who shall serve ex officio, without vote; a staff member of Michigan state university appointed by the dean of agriculture of that university to serve at the pleasure of the dean, ex officio, without vote; and 10 growers, 2 processors, 2 shippers, and 1 retailer appointed by the governor with the advice and consent of the senate. A member appointed by the governor shall be a citizen and resident of this state and of the district from which appointed, shall be 18 years of age or older, and shall be in compliance with this act. A commission member in the grower category shall be engaged and have been engaged in growing potatoes within this state for a period of not less than 2 years immediately before appointment, and shall have derived a substantial portion of his or her income from this activity.

(2) Eight growers shall be appointed to serve on the commission, representing 7 districts throughout the state as follows: District 1—Upper Peninsula counties shall be represented by 2 members. The following districts shall be represented by 1 member

each: district 2—Antrim, Manistee, Wexford, Missaukee, Roscommon, Mason, Lake, Osceola, Clare, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau, and Otsego; district 3—Alcona, Alpena, Montmorency, Oscoda, Presque Isle, Iosco, and Ogemaw; district 4—Kent, Montcalm, Newaygo, Isabella, Mecosta, and Oceana; district 5—Bay, Arenac, Midland, Tuscola, Huron, Sanilac, Gratiot, Gladwin, and Saginaw; district 6—Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun, Berrien, Cass, Clinton, Ionia, Ottawa, Muskegon, St. Joseph, and Branch; district 7—Ingham, Livingston, Oakland, Macomb, Jackson, Washtenaw, Wayne, Hillsdale, Lenawee, Shiawassee, Genesee, Lapeer, St. Clair, and Monroe. The ninth and tenth growers shall serve at large. The other members of the commission, except the ex officio members, shall have been associated with the potato industry for not less than 2 years immediately before appointment.

(3) The term of office of an appointed member shall be 3 years. The term of an appointed member shall expire on July 1, except that a term shall continue until a successor is appointed and qualified. If during a term a member ceases to possess any of the qualifications prescribed in this act, that member's office shall be vacated. A person appointed to fill a vacancy shall serve for the remainder of the unexpired term and until a successor is appointed and qualified.

(4) The commission shall conduct a meeting of growers and shippers annually.

(5) The commission may conduct a meeting of growers in the district where a vacancy will occur by expiration of a term, to elect nominees for appointment to the commission. Instead of a meeting, nominees may be selected by a vote of growers in the district by mail ballot, providing ballots are mailed by the commission to all growers of record, and in compliance with this act. Not more than 2 nominees for each vacancy on the commission shall be selected. The names of all nominees shall be placed on a list of nominees recommended to the governor, and the governor shall make appointments from that list. The growers at large shall be nominated by a majority of the 8 growers representing the districts. A majority of the 10 grower members shall nominate the processor, shipper, and retail candidates for appointment to the commission. Vacancies on the commission, except from the expiration of term, shall be filled by the governor from nominees selected by the commission. A person appointed as a commission member shall qualify by filing a written acceptance and oath of office within 10 days after being notified by the governor of the appointment.

(6) Annually, the commission members shall elect a chairperson from among its appointed members. A majority of the voting members of the commission constitutes a quorum for the transaction of business and the carrying out of the duties of the commission. The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Meetings of the commission shall be called by the chairperson, except that special meetings shall be called by the chairperson on petition of 8 members no later than 7 days after receiving the petition.

(7) The commission, with the advice and consent of the director and the commission of agriculture, may reapportion either the number of commission members or member districts, or both. Reapportionment of the districts shall be on the basis of production or industry representation. Reapportionment may be commenced not earlier than 30 days after the effective date of the amendatory act that added this subsection. Reapportionment of either members or districts shall not occur more than twice in any 5-year period and shall not occur within 6 months before a referendum. After reapportionment under

this subsection, if the residence of a member of the commission falls outside the district for which he or she serves on the commission and falls within the district for which another member serves on the commission, then both members shall continue to serve on the commission for a term equal to the remaining term of the member who served for the longest period of time. After the reapportionment described in this subsection, if a district is created within which no member serving on the commission resides, then a member shall be selected in the manner as prescribed in this section. After a reapportionment or redistricting, the commission may temporarily have more members than prescribed by this section until the expiration of the term of the longest-serving member from that district. In the case of a reapportionment conducted under this subsection, the provisions of this subsection prevail over any other conflicting provisions of this section.

(8) The per diem compensation of the appointed members of the commission shall not exceed $75.00 plus the reimbursement of expenses incurred in attending a commission meeting.

(9) All funds of the commission shall be handled by the commission and all funds received by it shall be used to implement this act. Money received by the commission shall be deposited in banks or other forms of security as may be designated by the commission.

(10) Retailers, processors, and others may support the programs of the commission by paying an annual fee of $100.00.

(11) The commission may accept gifts and grants.

(12) The commission shall maintain accurate books, records, and accounts of its transactions, which books, records, and accounts shall be open to inspection by the public and shall be subject to audit by the auditor general or a certified public accountant. A document prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except as otherwise provided in section 4a.

(13) The commission may borrow money in anticipation of the receipt of assessments if all of the following conditions are met:

(a) The loan will not be requested or authorized, or will not mature, within 90 days before a resubmittal or termination referendum regarding an assessment under this act.

(b) The amount of the loan does not exceed 50% of the annual average assessment revenue during the previous 3 years.

(c) The loan repayment period does not exceed the time period during which the assessment is made or the time period during which the assessment can reasonably be expected to be imposed.

(d) The loan has the prior written consent of the director. The director may request an audit of the commission by the auditor general before approving the loan.

(14) The director shall assess against the growers and shippers all outstanding loans approved under subsection (13), including interest, if the assessment is terminated.

(15) A financial report shall be prepared annually and made available upon request.

This act is ordered to take immediate effect.
Approved July 7, 2005.
Filed with Secretary of State July 7, 2005.

[No. 60]

(SB 512)

AN ACT to amend 1989 PA 24, entitled "An act to provide for the establishment and maintenance of district libraries; to provide for district library boards; to define the powers and duties of certain state and local governmental entities; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 2, 3, 4, 11, 12, 15, 19, 20, 21, 23, and 24 (MCL 397.172, 397.173, 397.174, 397.181, 397.182, 397.185, 397.189, 397.190, 397.191, 397.193, and 397.194), sections 2 and 3 as amended by 2001 PA 64, section 11 as amended by 2002 PA 159, section 12 as amended by 2002 PA 540, and section 15 as amended by 1994 PA 114, and by adding sections 3a and 3b.

The People of the State of Michigan enact:

397.172 Definitions.

Sec. 2. As used in this act:

(a) "Agreement" means a district library agreement required by section 3 or the agreement governing a district library established under former 1955 PA 164.

(b) "Board" means a district library board.

(c) "Department" means the department of history, arts, and libraries.

(d) "District" means the territory of the participating municipalities that is served by a district library established under this act.

(e) "General election" means that term as defined in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(f) "Largest" means, if used in reference to a participating school district, the participating school district having the most electors voting at the last regularly scheduled school board election in the participating school district.

(g) "Largest" means, if used in reference to a county, the county having the most registered electors of a district as last reported to the county clerk under section 661 of the Michigan election law, 1954 PA 116, MCL 168.661.

(h) "Legislative body" means, if the municipality is a school district, the school board.

(i) "Municipality" means a city, village, school district, township, or county. Municipality shall not include a school district for the purpose of establishing a new district library after January 1, 2015.

(j) "Participating" means, in reference to a municipality, that the municipality is a party to an agreement.

(k) "School district" means 1 of the following but does not include a primary school district or a school district that holds meetings rather than elections:

(*i*) "Local act school district" as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(*ii*) "Local school district" as that term is used in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(*l*) "State librarian" means the librarian appointed under section 5 of the library of Michigan act, 1982 PA 540, MCL 397.15.

397.173 Joint establishment of district library; requirements; portion of municipality to be included in district library; excluded portion; resolution; documents to be filed with state librarian; review; approval of agreement; amendment of boundaries; effect of excluded territory; single municipality.

Sec. 3. (1) Except as otherwise provided under subsection (13), 2 or more municipalities, except 2 or more school districts that hold their regularly scheduled elections on different dates, authorized by law to establish and maintain a library or library services may jointly establish a district library if each of the following requirements is satisfied:

(a) If the proposed district contains a public library, other than a district library established under this act, and that public library is recognized by the department as lawfully established for purposes of the distribution of state aid and penal fines, the governing board of the public library approves the establishment of the district library.

(b) The legislative body of each municipality identified in the agreement described in section 4 adopts a resolution providing for the establishment of a district library and approving a district library agreement.

(c) The proposed district library district does not overlap any portion of another district library district.

(2) A participating municipality may provide in the resolution required by subsection (1) that only a portion of its territory is included in the district library district. Except as provided in subsection (3), the portion of a participating municipality included in a district library district shall be bounded by county, township, city, village, or school district boundaries.

(3) A city, village, or township may exclude from a district library district only that portion of the municipality's territory located within the boundaries of a public library that is all of the following:

(a) Recognized by the department as lawfully established for the purposes of the distribution of state aid and penal fines.

(b) Established under this act or any of the following acts:

(*i*) 1877 PA 164, MCL 397.201 to 397.217.

(*ii*) The revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(*iii*) 1917 PA 138, MCL 397.301 to 397.305.

(4) On or before October 1, 1998, the boards of district libraries having common jurisdiction over parcels of taxable property shall file with the state librarian copies of resolutions adopted by each, together with a copy of a map described in subsection (5), certifying the exclusion of territory from one or the other of the district library districts. The resolution and the map shall demonstrate that no parcels of taxable property remain within more than 1 district library district and shall additionally demonstrate that the remaining district library districts are each composed of a contiguous whole. If the boards of district library districts having common jurisdiction over parcels of taxable property have not filed such resolutions and maps with the state librarian by October 1, 1998, the department shall approve a change in the boundaries of those district libraries, eliminating the overlapped territory. The department shall obtain a statement identifying the parcels that are located in the overlapping territory from the treasurer of each county within which the district library district is located and a statement of the date on which such parcels were first included within the territory of a district library district established in accordance with this act. The department shall direct the district library board to ensure that any parcel that was originally located within the boundaries of a district library

district remain in that original district library district and be excluded from the territories of the other district library districts in which it is located.

(5) Participating municipalities that propose to establish a district library shall file with the state librarian both of the following:

(a) A copy of an agreement described in section 4 that identifies the proposed library district.

(b) A copy of a map or drawing that is no smaller than 8-1/2 by 11 inches or larger than 14 by 18 inches and clearly shows the territory proposed to be included in the district library district. The map shall unambiguously show the relationship of the proposed district library district to the adjacent and constituent units of government, which include counties, cities, villages, townships, school districts, and district libraries.

(6) The state librarian shall review the agreement described in section 4 and the map described in subsection (5)(b) and approve or disapprove of the proposed district library district in accordance with section 5. The participating municipalities shall cooperate with the state librarian to correct any errors or changes in the agreement or map that the state librarian considers necessary to comply with this act.

(7) Upon receiving notice of the state librarian's approval of an agreement described in section 4, upon receiving notice of a directive from the department in accordance with subsection (4), or upon expiration of the 10-day period described in subsection (11), the secretary of the board of the affected district library shall submit to the county treasurer of each county in which the district library district is located and to the treasurer of each municipality in which the district library district is located a copy of all of the following:

(a) The state librarian's written statement of approval for the district library issued in accordance with section 5 or the department's directive received in accordance with subsection (4).

(b) The map or drawing of the district library's territory described in subsection (5)(b).

(c) If the district library includes only a portion of a municipality, the tax identification number of each parcel of property within that municipality which is included in the district library district.

(8) Once an agreement is approved by the state librarian, the agreement and boundaries of a district library established under this act may be amended to do only the following:

(a) Provide for the withdrawal of a participating municipality in accordance with section 24.

(b) Add a participating municipality in accordance with section 25.

(c) Provide for the merging of 2 or more district libraries.

(d) Eliminate certain territory in accordance with subsection (10).

(9) For any amendment described in subsection (8), the secretary of the board of the district library shall file with each of the following a copy of the map or drawing of the amended boundaries approved by the participating municipalities:

(a) The county treasurer of each county in which the district library is situated.

(b) The department.

(10) A district library recognized by the legislative council before December 29, 1997 may amend its boundaries to eliminate territory located within the legal boundaries of a public library or another district library district, if that public library or other district library is recognized by the department as lawfully established for the purposes of the

distribution of state aid and penal fines. The procedures for amending an agreement under section 5 do not apply to a boundary amendment described in this subsection. A district library that amends its boundaries under this subsection shall meet all of the following requirements:

(a) The board of the district library adopts a resolution designating the territory to be excluded from its boundaries.

(b) The proposed amended boundaries exclude only that territory which is within the legal boundaries of a public library established under this act or any of the following acts and recognized by the department as lawfully established for the purposes of the distribution of state aid and penal fines:

(*i*) 1877 PA 164, MCL 397.201 to 397.217.

(*ii*) The revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(*iii*) 1917 PA 138, MCL 397.301 to 397.305.

(c) The district library files with the state librarian a copy of the resolution of the board described in subdivision (a) together with a map or drawing that complies with the requirements of subsection (5)(b).

(11) If a district library complies with subsection (4) or (10) and the state librarian does not disapprove the amended boundaries within 10 business days after receiving the map or drawing described in subsection (10)(c), the boundaries are amended.

(12) The territory that has been excluded from any district library district under subsection (4) or (10) shall remain a part of the district library district from which it has been excluded for the purpose of levying debt retirement taxes for bonded indebtedness of the district library district that exists on December 29, 1997. The territory shall remain a part of that district library district until the bonds are redeemed or sufficient funds are available in the debt retirement fund of the district library for that purpose.

(13) Except for a school district and with the approval of the state librarian, a single municipality may establish a district library under this section if each of the following requirements is satisfied:

(a) The municipality has made an assertive effort over a period of time of not less than 3 consecutive years to form a district library with 1 or more other municipalities.

(b) The municipality has submitted to and received the state librarian's approval of a plan of service.

(c) The municipality has a population of 4,500 or more.

(d) The municipality is otherwise qualified and meets the requirements of a district library under this act.

(e) Any other requirements considered necessary by the state librarian to ensure that a district library created under this section complies with the intent of this act.

397.173a Referendum on question of becoming district library or joining existing district library; filing, approval, and review of petition; approval by electors; establishment of new district library; appointment of interim board; vote by district library board to accept or reject new proposed participating municipality.

Sec. 3a. (1) Upon petition by not less than 5% of the registered electors residing in the affected municipality, municipalities, or the portion of a municipality, requesting a referen-

dum on the question of becoming a district library or joining an existing district library, the clerk of each affected municipality, upon verifying the required number of signatures on the petitions, shall file a copy of the petition with the department and submit the question of whether the municipality should become a participating municipality to the vote of the electors of the municipality at the next general election or special election called for that purpose and conducted in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(2) If the question of the petition under subsection (1) relates to the joining of an existing district library, before circulating the petition for signatures, the supporters of the petition may submit the proposal and the petition language to the existing district library board for review and approval. The district library board shall vote by resolution to accept or reject the proposed new participating municipality within 30 days of receiving a copy of the proposed petition. If the proposal is approved by the district library board and the referendum is passed by the electors, the district library shall amend its agreement to incorporate the new participating municipality.

(3) The referendum submitted to the electors under this section shall include a request for a millage to fund the new district or the municipality's obligation to the existing district. For district libraries with appointed boards, the referendum shall include language regarding the appointment of new members to represent any new participating municipality.

(4) If approved by a majority of the electors in the affected municipality voting on the question, the municipality shall proceed to become a participating municipality in the manner provided under this act.

(5) A new district library established under this section shall consist of 2 or more municipalities and be governed by an elected board as provided under section 11. The board required under this subsection shall be elected not later than 1 year from the date the electors approve the new district.

(6) If a new district library is created under this section, each participating municipality shall appoint members to an interim governing board in a number proportional to its population in relationship to the entire district. The interim board shall prepare and submit the agreement and map required by this act to the department no later than 180 days from the date the electors approve the new district. If the agreement and map are not submitted as required by this subsection, the agreement and map shall be prepared by the state librarian.

(7) If the district library board has not approved the new participating municipality under subsection (2) and the petition is submitted to the electors for approval and passes, the board of the district library shall vote within 30 days following certification of the election results whether to accept or reject the new proposed participating municipality. If the new participating municipality is accepted, the district library shall amend its agreement to incorporate the new participating municipality.

397.173b Merging of district libraries; requirements; districtwide library tax.

Sec. 3b. (1) Two or more district libraries may merge if all of the following requirements are satisfied:

(a) The governing boards of the district libraries by majority vote approve that the district libraries merge and that all territory located within their jurisdictional service areas are included in the merger.

(b) The approving resolution is conditioned upon majority vote of approval by the governing boards of all participating municipalities, within a period of time specified in the resolution.

(c) By a majority vote of the members of the district library boards, amend the agreement to reflect the merger of the libraries and the territory served by the merger.

(d) The amendments to the agreement shall include, but are not limited to, changes in board representation, the percentage of funds necessary from each participating municipality for the establishment and operation of the merged district libraries, a revised legal description of the district, and a map that clearly shows the revised service area of the new district library.

(e) That all amendments and resolutions are submitted to the state librarian.

(2) If there is a districtwide library tax being levied by a participating library at the time of the merger, the tax will remain in effect and can be considered as a portion or all of that library's contribution in the merger. A districtwide tax will be extinguished upon the approval of a merged district library districtwide tax by the majority of the electorate residing in the merged district libraries' jurisdictional limits.

397.174 District library agreement; provisions.

Sec. 4. (1) The agreement shall provide for all of the following:

(a) The name of the district. For a district that is created on or after the effective date of the amendatory act that added section 3a, the name shall include the word "district".

(b) The identity of the municipalities establishing the district library.

(c) The creation of a board to govern the operation of the district and the method of selection of board members, whether by election or appointment. If board members are selected by appointment, the agreement shall provide for the term of office, the total number of board members, and the number of board members to be appointed by the legislative body of each participating municipality. If board members are selected by election, the agreement shall provide for the number of provisional board members to be appointed by the legislative body of each participating municipality.

(d) Of the amount of money to be stated in the annual budget under section 13, the percentage to be supplied by each participating municipality.

(e) The procedure for amending the agreement, which shall require the consent of the legislative bodies of not less than 2/3 of the participating municipalities.

(f) A period of time after the effective date of the agreement, not less than 1 year, during which the adoption of a resolution to withdraw from the district library under section 24 shall be void.

(g) Any distribution of district library assets to take place upon the withdrawal of a participating municipality.

(h) Any other necessary provisions regarding the district library.

(2) A district library agreement may provide that the district library board is abolished and the district library terminates unless, on or before a date stated in the agreement, the district electors approve a district library millage at a rate not less than a minimum number of mills stated in the agreement. If the district library agreement contains such a provision, the district library agreement shall specify the manner in which the net assets of the district library shall be distributed to the participating municipalities upon termination and shall contain a plan for continuing public library service to all residents of the district after termination.

397.181 Election of board members of district library; provisions applicable where school district is participating municipality; amendment of agreement.

Sec. 11. (1) Except as otherwise provided under subsections (2) and (3), all of the following apply to an election of board members of a district library:

(a) If an agreement prescribes elected board members, the board shall consist of 7 members elected at large from the district.

(b) If an agreement prescribes elected board members, a provisional board of 7 members shall be appointed. The members of the provisional board shall hold office until their successors are elected and qualified.

(c) The first election of board members shall take place at the first general election held 140 days or more after the appointment of the first member of the provisional board. The 4 persons receiving the most votes at the first election for board members shall have 4-year terms, and the 3 remaining persons elected to the board shall have 2-year terms. After the first election, board members shall be elected at general elections for 4-year terms that begin on January 1 following the election.

(d) Board members shall be elected on nonpartisan ballots.

(e) Subject to subdivision (f), a nomination for the office of board member shall be by nonpartisan petitions signed by registered electors of the district. The number of signatures shall be as follows:

(*i*) For a district with a population of less than 10,000, not less than 6 or more than 20.

(*ii*) For a district with a population of 10,000 or more, not less than 40 or more than 100.

(f) In lieu of the nominating petition prescribed in this subsection, an individual may file a $100.00 nonrefundable fee to have his or her name placed on the ballot.

(g) A nominating petition or filing fee shall be filed with the clerk of the largest county not later than 4 p.m. of the day 110 days before the date of the election. The county clerk with whom nominating petitions or filing fees are filed shall certify the names of the candidates to the clerk of every other county in which all or part of a participating municipality is located.

(h) A vacancy in the office of a board member shall be filled until the expiration of the vacating board member's term by appointment by majority vote of the remaining board members. If the vacancy occurs 140 or more days before the first regularly scheduled election of board members that follows the beginning of the term of the board member vacating office and that term is 4 years, all of the following apply:

(*i*) The vacancy shall be filled by appointment by majority vote of the remaining board members only until the next date on which the term of any board member expires.

(*ii*) A board member shall be elected at the regularly scheduled election of board members next following the occurrence of the vacancy to fill the vacancy for the remainder of the term of the board member vacating office.

(2) If a school district is a participating municipality, the following apply to an election of board members for a district library:

(a) The first election of board members shall take place at the same time as the first regularly scheduled election of school board members in the largest participating school district occurring on or after the thirteenth Monday following the appointment of the first member of the provisional board. The term of office of an elected member of the board shall begin at the same time as the term of a school board member elected at the same election in the largest participating school district.

(b) Subject to subdivision (c), a nomination for the office of board member shall be by a petition meeting to the extent applicable the same requirements, including filing requirements, as a nominating petition for the office of school board member in the largest participating school district. The petition shall be filed not later than 4 p.m. of the twelfth Tuesday preceding the election. The number of signatures shall be as follows:

(*i*) For a district with a population of less than 10,000, not less than 6 or more than 20.

(*ii*) For a district with a population of 10,000 or more, not less than 40 or more than 100.

(c) In lieu of the nominating petition prescribed under subdivision (b), an individual may file a $100.00 nonrefundable fee to have his or her name placed on the ballot. A nominating petition or filing fee shall be filed with the school district election coordinator for the largest participating school district. The school district election coordinator shall certify the names of the candidates and the date of the election to the school district election coordinator of every other participating school district and to the election officials authorized by this act to conduct the election in each participating municipality all or a portion of which is located within a nonparticipating school district.

(3) The agreement may be amended to coordinate the terms and election of board members with the terms and election of other school or municipal officials.

397.182 Powers of board; compensation and expenses of board members; deposit and expenditure of money in district library fund.

Sec. 12. (1) A board may do 1 or more of the following:

(a) Establish, maintain, and operate a public library for the district.

(b) Appoint and remove officers from among its members.

(c) Appoint and remove a librarian and necessary assistants and fix their compensation.

(d) Purchase, sell, convey, lease, or otherwise acquire or dispose of real or personal property, including, but not limited to, land contracts and installment purchase contracts.

(e) Erect buildings.

(f) Supervise and control district library property.

(g) Enter into a contract to receive library-related service from or give library-related service to a library or a municipality within or without the district.

(h) Adopt bylaws and regulations, not inconsistent with this act, governing the board and the district library.

(i) Propose and levy upon approval of the electors as provided in this act a tax for support of the district library.

(j) Borrow money pursuant to the district library financing act, 1988 PA 265, MCL 397.281 to 397.290.

(k) Issue bonds pursuant to the district library financing act, 1988 PA 265, MCL 397.281 to 397.290.

(*l*) Accept gifts and grants for the district library.

(m) Do any other thing necessary for conducting the district library service, the cost of which shall be charged against the district library fund.

(2) A board may reimburse a board member for necessary expenses that the member incurs in the performance of official duties. A board may compensate board members for attending official meetings of the board or committees of the board and shall include the amount of compensation in the annual budget. Compensation shall not exceed $30.00 per

board member per meeting. A board member shall not be compensated for attending more than 52 meetings per year.

(3) Money for the district library shall be paid to the board and deposited in a fund known as the district library fund. The board shall exclusively control the expenditure of money deposited in the district library fund.

397.185 Ballot proposal for districtwide tax; amount of millage; proposed duration; adoption by resolution; certification; authorization of tax levy; limitation on elections.

Sec. 15. (1) A ballot proposal for a districtwide tax shall state the amount of the millage. If section 13(4) limits the maximum duration of a portion of the millage in a ballot proposal for a districtwide tax, the ballot proposal shall state the proposed duration of that portion of the millage.

(2) If none of the participating municipalities are a school district, a proposal for a districtwide tax shall not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board not later than 60 days before the election to the county clerk of each county in which all or part of the district is located for inclusion on the ballot. The proposal shall be certified for inclusion on the ballot at the next general election, the state primary immediately preceding the general election, or a special election held on an otherwise regularly scheduled election date, as specified by the board's resolution.

(3) If 1 or more of the participating municipalities are school districts, a proposal for a districtwide tax shall not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board not later than 60 days before the election to the school district election coordinator of the largest participating school district. The board shall certify the proposal for inclusion on the ballot at the next regularly scheduled election of school board members in the largest participating school district or at a special election held on an otherwise regularly scheduled election date, as specified by the board's resolution. The school district election coordinator to whom the ballot proposal was certified shall promptly certify the proposal and date of election to the school district election coordinator of every other participating school district and to the election officials authorized by this act to conduct the election in the participating municipalities or the portions of participating municipalities located within a nonparticipating school district.

(4) If a majority of the votes cast on the question of a districtwide tax is in favor of the proposal, the tax levy is authorized. No more than 2 elections shall be held in a calendar year on a proposal for a districtwide tax.

397.189 Printing and providing ballots.

Sec. 19. If 1 or more participating municipalities are school districts, the school district election coordinator of each participating school district shall provide for the printing of ballots for that school district. The school district election coordinator of the largest participating school district shall provide ballots for an election for board members or a districtwide tax for a participating municipality or part of a participating municipality located within a nonparticipating school district.

397.190 Conduct of election for board members or districtwide tax.

Sec. 20. If 1 or more participating municipalities are school districts, the election for board members or a districtwide tax shall be conducted as follows:

(a) The school district election coordinator otherwise authorized by law to conduct elections in a participating school district shall conduct the election in that school district.

(b) If all or a portion of the participating municipality is located within a nonparticipating school district that is holding an election on the same day as the election for board members or a districtwide tax, the school district election coordinator authorized by law to conduct elections in the nonparticipating school district shall conduct the election for board members or a districtwide tax in the participating municipality or that portion of the participating municipality located within the nonparticipating school district. The qualified and registered electors of the participating municipality that reside within the nonparticipating school district shall vote in the election for board members or a districtwide tax by special ballot at their regular polling places in the election in the nonparticipating school district. Those qualified and registered electors shall be identified from the registration records of the nonparticipating school district or from a list of the names, addresses, and birth dates of qualified and registered electors of the participating municipality who reside in the nonparticipating school district and are eligible to vote in elections for board members or a districtwide tax. The list shall be supplied and updated by the clerk of the participating municipality at the request of the school district election coordinator or other official authorized by law to conduct the election.

(c) If all or a portion of a participating municipality is located within a nonparticipating school district that is not holding an election on the same day as the election for board members or a districtwide tax, the school district election coordinator authorized by law to conduct elections in the participating municipality shall conduct the election for board members or a districtwide tax in the participating municipality or that portion of the participating municipality located within the nonparticipating school district.

397.191 Publication of notices for election of board members or districtwide tax; publication of notices of close of registration and election; ballot language of proposal.

Sec. 21. (1) If an election for district board members or a districtwide tax is conducted by a participating school district under section 20(a), the school district election coordinator required by law to publish notices of the close of registration and election for a school district election in that school district shall publish the notices for the election for board members or a districtwide tax in that school district.

(2) If an election for board members or a districtwide tax is conducted in a participating municipality or a portion of a participating municipality by a nonparticipating school district, under section 20(b), the school district election coordinator required by law to publish the notices of close of registration and election for a school district election in that school district shall publish the notices for the election for board members or a districtwide tax for the participating municipality or portion of a participating municipality located within that school district. The notices of close of registration and election shall designate the participating municipality for all or a portion of which the election is being conducted under section 20(b).

(3) If an election for board members or a districtwide tax is conducted by a participating municipality under section 20(c), the clerk of the participating municipality shall publish notices of close of registration and election for the participating municipality or that portion of the participating municipality located in the nonparticipating school district.

(4) A notice of close of registration published under this section shall contain the ballot language of the proposal.

397.193 Reimbursement for costs of election.

Sec. 23. (1) A county clerk shall charge the district library and the district library shall reimburse the county for the actual costs the county incurs in an election for board members or a districtwide tax.

(2) If a participating township, city, or village conducts an election for district library board members or a districtwide tax, the clerk of that municipality shall charge the district library and the district library shall reimburse the municipality for the actual costs the municipality incurs in conducting the election if 1 or more of the following apply:

(a) The election is not held in conjunction with a regularly scheduled election in that municipality.

(b) Only a portion of the territory of the municipality is included in the district.

(c) The election is conducted under section 20(c) in conjunction with a regularly scheduled election in the municipality and a portion of the municipality lies within the boundaries of a nonparticipating school district.

(3) If an election for district library board members or a districtwide tax is held in conjunction with the regular election of a participating school district, the school district election coordinator authorized by law to conduct the election shall charge the district library and the district library shall reimburse the school district for the additional costs that the school district incurs in conducting the election.

(4) In addition to costs reimbursed under subsection (1), (2), or (3), a municipality shall charge the district library and the district library shall reimburse the municipality for actual costs that the municipality incurs and that are exclusively attributable to an election for board members or a districtwide tax.

(5) The actual costs that a county, township, city, village, or school district incurs shall be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

397.194 Withdrawal of municipality from district library; amendment of agreement; dissolution.

Sec. 24. (1) Except to the extent that the agreement provides otherwise, a participating municipality in which a district library tax is in effect or authorized to be levied by the district library or by the participating municipality may withdraw from the district library if all of the following requirements are satisfied:

(a) Not less than 2 months before the next regularly scheduled election of the municipality, the legislative body of the municipality adopts a resolution to withdraw from the district library on a date specified in the resolution. The date specified shall be not less than 6 months after the next regularly scheduled election of the municipality.

(b) Notice of an election on the resolution is published in a newspaper published or of general circulation in the municipality not less than 10 days before the next regularly scheduled election of the municipality following adoption of the resolution.

(c) The resolution is approved by a majority of the electors of the municipality voting on the resolution at the next regularly scheduled election of the municipality following adoption of the resolution. If only a portion of the territory of a municipality is included in the district, the vote shall be conducted only in that portion of the municipality included in the district.

(d) After approval of the resolution by the electors, the clerk of the municipality or, if the municipality is a school district, the school district election coordinator files with the library of Michigan a copy of the official canvass statement and a certified copy of the resolution and files with the board a copy of the official canvass statement and a number of certified copies of the resolution sufficient for distribution to the legislative body of each of the participating municipalities.

(e) Payment or the provision for payment to the district library or its creditors of all obligations of the municipality seeking to withdraw is made.

(f) The legislative body of the withdrawing municipality furnishes to the library of Michigan a plan for continuing, after the municipality no longer receives library services from the district library, public library service for all residents of the withdrawing municipality or the portion of the territory of the withdrawing municipality that is included in the district.

(2) A district library tax in effect or authorized to be levied by the district library or by the withdrawing municipality before the adoption of the resolution to withdraw shall be levied in the municipality for its original purpose but only for the period of time originally authorized and only so long as the board continues in existence. In addition, a municipality that withdraws from a district library shall continue to receive library services from the district library so long as a districtwide tax authorized to be levied before the withdrawal of the municipality continues to be levied in the municipality and the district library remains in operation.

(3) Except to the extent that the agreement provides otherwise, a participating municipality in which no district library tax is in effect or authorized to be levied by either the district library or the participating municipality may withdraw from the district library if all of the following requirements are satisfied:

(a) The legislative body of the municipality adopts a resolution to withdraw from the district library on a date specified in the resolution. The withdrawal date shall follow the date of the resolution by not less than 1 year.

(b) The clerk of the municipality or, if the municipality is a school district, the school district election coordinator files with the library of Michigan a certified copy of the resolution and files with the board a number of certified copies of the resolution sufficient for distribution to the legislative bodies of each of the participating municipalities.

(c) The requirements of subsection (1)(e) and (f) are satisfied.

(4) After the withdrawal of a municipality, the agreement shall be amended to reflect the withdrawal.

(5) The state librarian may initiate proceedings to dissolve a district library established under this act if he or she finds 1 or more of the following:

(a) The district library does not qualify for distribution of state aid and penal fines.

(b) The district library board has not met within the last 12 months.

(c) The district library lacks the funding to provide adequate library-related services.

This act is ordered to take immediate effect.
Approved July 7, 2005.
Filed with Secretary of State July 7, 2005.

[No. 61]

(SB 514)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate

school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 4 and 5 (MCL 380.4 and 380.5), as amended by 2003 PA 299.

The People of the State of Michigan enact:

380.4 Definitions; E to I.

Sec. 4. (1) "Educational media center" means a program operated by an intermediate school district and approved by the state board that provides services to local school districts or constituent districts under section 671.

(2) "Handicapped person" shall be defined by rules promulgated by the state board. Handicaps include, but are not limited to, mental, physical, emotional, behavioral, sensory, and speech handicaps.

(3) "Intermediate school board" means the board of an intermediate school district.

(4) "Intermediate school district" means a corporate body established under part 7.

(5) "Intermediate school district election" means an election called by an intermediate school board and held on the date of the regular school elections of constituent districts or on a date determined by the intermediate school board under section 642 or 642a of the Michigan election law, MCL 168.642 and 168.642a.

(6) "Intermediate school elector" means a person who is a school elector of a constituent district and who is registered in the city or township in which the person resides.

(7) "Intermediate superintendent" means the superintendent of an intermediate school district.

380.5 Definitions; L to R.

Sec. 5. (1) "Local act school district" or "special act school district" means a district governed by a special or local act or chapter of a local act. "Local school district" and "local school district board" as used in article 3 include a local act school district and a local act school district board.

(2) "Membership" means the number of full-time equivalent pupils in a public school as determined by the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the state board.

(3) "Michigan election law" means the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(4) "Nonpublic school" means a private, denominational, or parochial school.

(5) "Objectives" means measurable pupil academic skills and knowledge.

(6) "Public school" means a public elementary or secondary educational entity or agency that is established under this act, has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, strict discipline academy corporation, urban

high school academy corporation, or by the department or state board. Public school also includes a laboratory school or other elementary or secondary school that is controlled and operated by a state public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

(7) "Public school academy" means a public school academy established under part 6a and, except as used in part 6a, also includes an urban high school academy established under part 6c and a strict discipline academy established under sections 1311b to 1311*l*.

(8) "Pupil membership count day" of a school district means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(9) "Regular school election" or "regular election" means the election held in a school district, local act school district, or intermediate school district to elect a school board member in the regular course of the terms of that office and held on the school district's regular election date as determined under section 642 or 642a of the Michigan election law, MCL 168.642 and 168.642a.

(10) "Reorganized intermediate school district" means an intermediate school district formed by consolidation or annexation of 2 or more intermediate school districts under sections 701 and 702.

(11) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

This act is ordered to take immediate effect.
Approved July 7, 2005.
Filed with Secretary of State July 7, 2005.

[No. 62]

(SB 515)

AN ACT to amend 1966 PA 331, entitled "An act to revise and consolidate the laws relating to community colleges; to provide for the creation of community college districts; to provide a charter for such districts; to provide for the government, control and administration of such districts; to provide for the election of a board of trustees; to define the powers and duties of the board of trustees; to provide for the assessment, levy, collection and return of taxes therefor; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 38, 58, and 152 (MCL 389.38, 389.58, and 389.152), as amended by 2003 PA 306.

The People of the State of Michigan enact:

389.38 Regular community college election; separate propositions.

Sec. 38. At a regular community college election, separate propositions may be submitted to the electors in addition to the election of trustees of the community college district when authorized by the board of trustees.

389.58 Regular community college election; submission of special propositions.

Sec. 58. At a regular community college election, in addition to the election of trustees, special propositions may be submitted to the electors when authorized by the board of trustees.

389.152 Member of community college board; nomination; election.

Sec. 152. A candidate for the office of member of a community college board shall be nominated, and members shall be elected, as provided in chapter XIV of the Michigan election law, MCL 168.301 to 168.315.

This act is ordered to take immediate effect.
Approved July 7, 2005.
Filed with Secretary of State July 7, 2005.

[No. 63]

(SB 516)

AN ACT to amend 1909 PA 278, entitled "An act to provide for the incorporation of villages and for revising and amending their charters; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness; to validate bonds issued and obligations previously incurred; and to prescribe penalties and provide remedies," (MCL 78.1 to 78.28) by adding section 24d.

The People of the State of Michigan enact:

78.24d Staggered terms of office; resolution; length of initial terms; applicability of subsection (1).

Sec. 24d. (1) Notwithstanding any charter provision, a village may pass a resolution to provide for the terms of office of its elected officials and for the terms to be staggered.

(2) The initial terms established under subsection (1) may be longer than allowed under the charter in order to facilitate the staggering of terms. This subsection does not apply after December 31, 2006.

(3) Notwithstanding any charter provision, the village may also pass a resolution to provide for any election provision that is consistent with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

This act is ordered to take immediate effect.
Approved July 7, 2005.
Filed with Secretary of State July 7, 2005.

[No. 64]

(SB 517)

AN ACT to amend 1909 PA 279, entitled "An act to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; to prescribe penalties and provide remedies; and to repeal acts and parts of acts on specific dates," (MCL 117.1 to 117.38) by adding section 3b.

The People of the State of Michigan enact:

117.3b Terms of office; staggered terms; resolution; initial terms; applicability of subsection (1).

Sec. 3b. (1) Notwithstanding any charter provision, the city may provide by resolution for the terms of office of its elected officials and for staggered terms.

(2) The initial terms established under subsection (1) may be longer than allowed under the charter in order to facilitate the staggering of terms. This subsection does not apply after December 31, 2006.

(3) Notwithstanding any charter provision, the city may provide by resolution for any election provision that is consistent with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

This act is ordered to take immediate effect.
Approved July 7, 2005.
Filed with Secretary of State July 7, 2005.

[No. 65]

(SB 518)

AN ACT to amend 1895 PA 3, entitled "An act to provide for the government of certain villages; to define their powers and duties; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by villages subject to this act; to define the powers and duties of certain state and local officers and entities; to define the application of this act and provide for its amendment by villages subject to this act; to validate prior amendments and certain prior actions taken and bonds issued by villages subject to this act; to provide for the disincorporation of villages; and to prescribe penalties and provide remedies," (MCL 61.1 to 74.25) by adding section 5a to chapter II.

The People of the State of Michigan enact:

CHAPTER II

62.5a Staggered terms of office; resolution; length of initial terms; applicability of subsection (1).

Sec. 5a. (1) Notwithstanding any other provision of this act, the village may pass a resolution to provide for the terms of office of its elected officials and for the terms to be staggered.

(2) The initial terms established under subsection (1) may be longer than allowed under this act in order to facilitate the staggering of terms. This subsection does not apply after December 31, 2006.

(3) Notwithstanding any other provision of this act, the village may pass a resolution to provide for any election provision that is consistent with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

This act is ordered to take immediate effect.
Approved July 7, 2005.
Filed with Secretary of State July 7, 2005.

[No. 66]

(SB 2)

AN ACT to amend 1982 PA 239, entitled "An act to license and regulate animal food manufacturing plants, transfer stations, dead animal dealers, rendering plants, and certain vehicles; to regulate the disposal of dead animals and to provide for poultry and livestock composting; to prescribe powers and duties of certain state departments; to impose fees; to provide for remedies and to prescribe penalties; and to repeal acts and parts of acts," by amending sections 3, 4, 15, 19, and 21 (MCL 287.653, 287.654, 287.665, 287.669, and 287.671), sections 3, 15, 19, and 21 as amended by 1998 PA 299 and section 4 as amended by 1993 PA 228.

The People of the State of Michigan enact:

287.653 Definitions; A to F.

Sec. 3. (1) "Active composting" means the accelerated decomposition of organic materials leading primarily to the production of carbon dioxide, water, heat, and compost.

(2) "Aeration" or "aerate" means the introduction of air into compost by using porous bulking agents, agitating, turning, mixing, forcing air through open ended perforated pipes embedded in compost, or other method provided for by rule.

(3) "Animal" means mollusks, crustaceans, and vertebrates other than human beings.

(4) "Animal food manufacturing plant" means an establishment at which animal or pet food is produced through the slaughtering, boning, grinding, cooking, canning, or freezing of dead animals.

(5) "Batch" means compost accumulated in a planned period of time.

(6) "Biofilter cap" means a layer of fresh bulking agent placed over a pile.

(7) "Bulking agent" means a material added to compost to provide nutrients, decrease bulk density, promote aeration, and remove heat.

(8) "Compost leachate" means any liquid leaving compost by running off of the surface of the pile or flowing downward through the pores of the pile.

(9) "Composting structure" means a structure designed and built for the sole purpose of composting organic material and dead animals.

(10) "Curing" means the period of time after active composting when further decomposition occurs at a slow rate.

(11) "Dead animals" means restaurant grease and the bodies, any part of the bodies, or any material produced from the bodies of animals that have been slaughtered or have died from any other cause and are not intended for human food. Dead animals do not include a finished product that has been processed by an approved method.

(12) "Dead animal dealer" means a person that procures and transports dead animals to or from a facility licensed under this act.

(13) "Decharacterize" means a procedure that renders dead animals unfit for human consumption.

(14) "Denature" means a procedure that imparts a distinctive color, odor, or taste to dead animals so that the bodies are unfit for human consumption or cannot be used for animal or pet food unless properly rendered.

(15) "Department" means the department of agriculture.

(16) "Director" means the director of the department of agriculture or his or her authorized representative.

(17) "Effluent" means any liquid leaving compost by running off the surface of the pile and flowing downward through the pores of the pile.

(18) "Facility" means any of the following:

(a) An animal food manufacturing plant.

(b) A rendering plant.

(c) A transfer station.

(19) "Fresh" means bulking agents of plant origin that have not been mixed with any animal tissue, product, or excrement and have limited odor-producing potential.

287.654 Definitions; G to T.

Sec. 4. (1) "Grinding" means the mechanical reduction of intact or whole animal tissues into smaller pieces.

(2) "Groundwater" means that term as defined in section 8303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8303.

(3) "Normal natural daily mortality" means dead animals generated as a result of the ordinary death loss or tissue by-product accumulations associated with or as a result of the day-to-day operations of raising, keeping, and harvesting animals.

(4) "Person" means an individual, partnership, corporation, limited liability company, cooperative, association, joint venture, or other legal entity or 2 or more entities in contractual relationships.

(5) "Pile" means the mass or mound of compost within the forms of an open-pile, contained-pile within bin, or open-windrow.

(6) "Rendering plant" means an establishment for the reduction by cooking or processing of dead animals to tallow and meat scrap, cracklings, or other items unfit for human consumption.

(7) "Restaurant grease dealer" means a person who procures and transports cooking grease wastes from a restaurant.

(8) "Static" means a compost pile that is left to stand motionless or idle and does not include a rotating drum in-vessel compost digester.

(9) "Transfer station" means an establishment for the collection of dead animals that are to be transported to a facility licensed either under this act or the Michigan commercial feed law, 1975 PA 120, MCL 287.521 to 287.535.

287.665 Rules.

Sec. 15. The department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, regarding the following:

(a) The construction and operation of a facility licensed under this act.

(b) Vehicles used for the transportation of dead animals.

(c) Methodology for active composting to include, but not be limited to, methodology regarding passively aerated static piles, mechanically or forced aerated static piles, windrow piles, and contained or in-vessel systems.

(d) Conditions for active composting to include, but not be limited to, recommended conditions regarding moisture content, carbon-to-nitrogen ratio, bulking agent particle size, animal tissue density, composting density, temperature ranges, and pH ranges.

(e) Parameters regarding grinding, including, but not limited to, pile form and shape, pile slumping, and the presence of large intact bones after composting.

(f) Methods for effluent containment and prevention of its movement into groundwater and surface water.

(g) The accommodation of normal natural daily mortality and system capacity for accommodation of both active composting and curing.

(h) Control of odor and pest or vermin infestation of piles with biofilter caps or as otherwise provided by rule.

(i) The generation of adequate records involving composting.

(j) A system of annual nutrient-content analysis.

(k) The final disposition of finished compost.

287.669 Inspection of facility, vehicle, and composting; suspension or revocation of license; hearings; alternative methods authorized by director; operation under common ownership or management; report of increase in mortality.

Sec. 19. (1) The director may inspect each facility and vehicle licensed under this act, and each location where composting of dead animals occurs as often as necessary to maintain the standards adopted in this act or in the rules promulgated under this act.

(2) The director may suspend or revoke a license issued under this act if a licensee violates this act or the rules promulgated under this act. The director shall conduct suspension or revocation administrative hearings pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The director may authorize by rule alternative methods of composting of dead animals for emergency, commercial, research, or other applications.

(4) Dead animals resulting from normal natural daily mortality intrinsic to an animal operation under common ownership or management may be composted together if the methods comply with the requirements of this act and all rules applicable to those methods as promulgated under section 15.

(5) Composting methods shall be used to compost only the normal natural daily mortality associated with a animal production unit under common ownership or management. Any increase in normal natural daily mortality, due to any cause known or unknown, shall be reported to the director immediately, and any dead animals resulting from that increase in normal natural daily mortality shall not be composted without permission of the director.

287.671 Dead animals; transfer from 1 vehicle to another; disposal; exceptions.

Sec. 21. (1) Dead animals, except if contained in a drum, barrel, or similar container, shall be transferred from 1 vehicle to another only at a licensed facility.

(2) All dead animals, except as provided in subsection (3), shall be disposed of within 24 hours after death by any of the following:

(a) Burial not less than 2 feet below the natural surface of the ground according to rules promulgated under this act.

(b) Burning in an appropriate licensed or permitted incinerator in compliance with part 55 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5501 to

324.5542. Residue from the burning process shall be disposed of by burial as provided in subdivision (a) or in a manner approved by the director.

(c) Composting methods.

(d) Procuring the services of a licensed dead animal dealer.

(e) Procuring the services of a licensed rendering plant.

(f) Procuring the services of a licensed animal food manufacturing plant.

(3) The following dead animals are not subject to the requirements of subsection (2):

(a) Small mammals, deer, and birds taken under the authority of a damage and nuisance animal control permit issued by the Michigan department of natural resources pursuant to part 401 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119.

(b) Small mammals, cervidae, and birds, that are road kill.

(c) Dead animals kept in secured temporary cold storage of 4.5 degrees Celsius, 40 degrees Fahrenheit, or below for a maximum of 7 days or frozen and securely stored at minus 11 degrees Celsius, 0 degrees Fahrenheit, or below for a maximum of 30 days.

(d) Restaurant grease.

(e) Dead animals used as specimens at educational institutions.

This act is ordered to take immediate effect.
Approved July 7, 2005.
Filed with Secretary of State July 7, 2005.

[No. 67]

(SB 412)

AN ACT to amend 1964 PA 183, entitled "An act creating the state building authority with power to acquire, construct, furnish, equip, own, improve, enlarge, operate, mortgage, and maintain facilities for the use of the state or any of its agencies; to act as a developer or co-owner of facilities as a condominium project for the use of the state or any of its agencies; to authorize the execution of leases pertaining to those facilities by the building authority with the state or any of its agencies; to authorize the payment of true rentals by the state; to provide for the issuance of revenue obligations by the building authority to be paid from the true rentals to be paid by the state and other resources and security provided for and pledged by the building authority; to authorize the creation of funds; to authorize the conveyance of lands by the state or any of its agencies for the purposes authorized in this act; to authorize the appointment of a trustee for bondholders; to permit remedies for the benefit of parties in interest; to provide for other powers and duties of the authority; and to provide for other matters in relation to the authority and its obligations," by amending sections 1, 1a, 3, and 7 (MCL 830.411, 830.411a, 830.413, and 830.417), sections 1 and 7 as amended by 1994 PA 252 and sections 1a and 3 as amended by 1988 PA 248.

The People of the State of Michigan enact:

830.411 Definitions.

Sec. 1. As used in this act:

(a) "Building authority" means the state building authority created by this act.

(b) "State" means the legislative, executive, and judicial branches of state government and includes institutions of higher education.

(c) "Existing facilities" means all existing buildings and other facilities, the sites for the buildings or facilities, and furnishings or equipment for the buildings or facilities located on real property acquired by the building authority under the terms of this act.

(d) "Facilities" means furnishings or equipment, capital maintenance improvements, existing facilities, and all new buildings, parking structures and lots, and other facilities, the sites for the buildings, structures, or facilities, and furnishings or equipment for the buildings, structures, or facilities in any way acquired or constructed by the building authority under this act.

(e) "True rental" means the rental required to be paid by the state to the building authority under a lease between the state and the building authority entered into under this act. The true rental shall be paid by the state to the building authority or its assignee periodically as specified in the lease with the building authority and shall be in periodic amounts that do not exceed the economic or market value to the state of the leased facilities. The economic or market value to the state of the leased facilities shall be determined by the state administrative board before the execution of a lease by the state under this act by an appraisal made by or for the state using commonly employed procedures that will fairly determine economic or market value. When using procedures commonly employed by appraisers, an appraisal may set forth a range for the true rental that reflects variations that may occur in the components upon which the appraisal is based. If a lease is only for furnishings or equipment, the state administrative board may employ an appraiser to determine the economic or market value to the state of the furnishings or equipment, or the state administrative board may approve an alternative method to determine the economic or market value to the state of the furnishings or equipment. The alternative method may include the determination of the economic or market value to the state by a person who is in the business of leasing furnishings or equipment.

(f) "Board" means the board of trustees of the building authority.

(g) "Bond" or "obligation" means a bond, note, or other debt obligation issued by the building authority under section 8.

(h) "Institution of higher education" means a college or university listed in section 4 or 5 of article VIII of the state constitution of 1963 or described in section 6 of article VIII of the state constitution of 1963 or a community or junior college established under section 7 of article VIII of the state constitution of 1963.

(i) "Equipment" means machinery, hardware, or any other type of equipment or a group of integrally related equipment, which shall meet all of the following:

(*i*) The equipment or the predominant portion of the group of integrally related equipment is located in or is physically connected to a state occupied building or facility or is located on state owned property.

(*ii*) The portion of the group of integrally related equipment that is not described in subparagraph (*i*) is integral to the functioning of the integrally related equipment described in subparagraph (*i*).

(*iii*) The projected useful life of the equipment is 5 years or more.

(j) "Party in interest" includes an owner of an obligation issued under this act; a counterparty to an agreement relating to security or management of payment, revenue, or interest rate exposure, including, but not limited to, a bank, bond insurance provider,

or security firm, as its interest appears; and a trustee or fiduciary duly designated by the building authority or otherwise to act on behalf of 1 or more owners or counterparties.

(k) "Capital maintenance improvements" means an expenditure to provide capital maintenance that is an asset depreciable under the internal revenue code that is used by this state or an institution of higher education.

830.411a Legislative findings.

Sec. 1a. The legislature finds all of the following:

(a) That there is a present need for the state, its agencies, and departments, in order to carry out necessary governmental functions and enterprises and to provide necessary services to the people of the state as mandated or permitted by constitution and law, to do both of the following:

(*i*) Rent, lease, or otherwise acquire additional buildings, together with necessary parking structures and lots, facilities, furnishings, equipment, and sites.

(*ii*) Renovate or restore properties owned or used by this state.

(b) That this state now rents and leases from private owners at a substantial cost space and furnishings or equipment in many communities in order to provide services, and as this state continues to grow it will be necessary to rent or lease substantial additional space and furnishings or equipment from private owners at substantial additional cost to provide services.

(c) That the state building authority is created by this act with the powers granted in this act to do both of the following:

(*i*) Provide additional space and furnishings or equipment in the best locations and in the most economical and efficient manner.

(*ii*) Improve existing facilities through capital maintenance improvements or the restoration or renovation of those facilities.

830.413 Powers of building authority generally.

Sec. 3. The building authority may do any of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Maintain a principal office at a place within this state.

(d) Sue and be sued in its own name and plead and be impleaded.

(e) Acquire, construct, furnish, equip, improve, restore, renovate, enlarge, own, operate, and maintain facilities that are approved by concurrent resolution of the legislature for the use of this state or an agency of this state.

(f) Acquire in the name of the building authority, hold, and dispose of real and personal property, or an interest in real and personal property, in the exercise of its powers and the performance of its duties.

(g) Act as a developer or co-owner of a facility that is a condominium project under the condominium act, 1978 PA 59, MCL 559.101 to 559.276, in the exercise of its powers and the performance of its duties.

(h) Borrow money for a corporate purpose as prescribed in this act, issue negotiable revenue bonds payable solely from the true rental except to the extent paid from the proceeds of sale of revenue obligations and any additional security provided for and pledged by the building authority in the resolution authorizing revenue obligations under section 8, and provide for the payment of the bonds and the rights of the holders of the bonds and mortgage facilities in favor of the holders of bonds issued under this act.

(i) Make and enter into contracts, leases, and other instruments necessary or incident to the performance of its duties and the execution of its powers. A lease may include provisions for construction, improvement, restoration, renovation, capital maintenance improvements, operation, use, and disposition of the facilities on payment of the bonds. If the cost of a contract for construction, materials, or services, other than compensation for personal or professional services, involves an expenditure of more than $5,000.00, the building authority shall make a written contract with the lowest qualified bidder, after advertisement for not less than 2 consecutive weeks in a newspaper of general circulation in this state, and in other publications as determined by the building authority.

(j) Employ and fix the compensation of consulting engineers, architects, superintendents, managers, and other construction, accounting, appraisal, and financial experts, attorneys, and other employees and agents as the authority determines are necessary to perform its duties and functions under this act.

(k) Receive and accept from a federal agency grants for or in aid of the construction of facilities and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants and contributions were made.

(*l*) Require fidelity bonds from employees handling money of the building authority. The bonds shall be in sums and subject to the terms and conditions that the board considers satisfactory.

(m) Do all acts necessary or, in the opinion of the building authority, convenient to carry out the powers expressly granted.

(n) Require that final actions of the board are entered in the journal of the board. A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(o) Require that the books and records of account of the building authority are audited annually by the auditor general, or if the auditor general is unable to act, by an independent certified public accountant appointed by the auditor general.

(p) Make and enter into contracts for insurance, letters of credit, and commitments to purchase its revenue obligations, or enter into other transactions to provide separate security to assure the timely payment of any revenue obligations of the building authority. A contract of the building authority permitted by this section shall not be a general obligation of the state or building authority.

830.417 Lease of facilities from authority; approval; payment of true rental; leasing of furnishings or equipment; lease for capital maintenance improvements.

Sec. 7. (1) The state may lease facilities from the building authority for public purposes within the concepts provided in this act, upon terms and conditions agreed upon and subject to the limitations and provisions provided in section 6. Before execution, a lease shall be approved by the state administrative board and, except as provided in subsections (3) and (4), by concurrent resolution of the legislature concurred in by a majority of the members elected to and serving in each house. The votes and names of the members voting shall be entered in the journal. The lease as approved by the building authority and the administrative board, and if required, the legislature or an institution of higher education, may provide for a determinable true rental as a range as permitted under section 1(e).

(2) If a lease is approved containing a true rental stated as a range, then actual rental to be paid under the lease shall be fixed at an amount certified by the appraiser and, after the certification, shall be approved by the state administrative board and the building authority. The appraiser shall not certify, and the board and authority shall not approve, a true rental amount unless the amount is fixed within or below the stated range. A lease shall not be executed more than 3 years after its approval by the legislature. The state shall pay to the building authority or its assignee the true rental at the times, in the manner, and at the place specified in the lease. The governor and the budget director shall include in the annual budget of the state for each year an amount fully sufficient to pay the true rental required to be paid by the state to the building authority or its assignee required by any lease under this act. If the lease is for an institution of higher education, then in addition, the lease shall be authorized by the institution of higher education and signed by its authorized officers.

(3) The state, except institutions of higher education, may lease from the building authority property that is comprised only of furnishings or equipment if all of the following requirements are met:

(a) Before a lease that is only for furnishings or equipment is executed, the general form of the lease shall be approved by concurrent resolution of the legislature concurred in by a majority of the members elected to and serving in each house. The form of the lease approved by the legislature need not contain a description of the property to be leased or the rental or a rental range. However, before the state executes the lease, the description of the property to be leased and the rental shall be approved by the state administrative board as provided in subsection (2). The concurrent resolution of the legislature approving the form of lease shall also approve a maximum amount of furnishings and equipment that may be leased during the 2 years following the approval of the lease pursuant to the form of lease approved.

(b) A lease that is only for furnishings or equipment shall be executed only if the furnishings or equipment are for use by a state agency as determined under the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(4) Through September 30, 2007, an institution of higher education, this state, and the building authority may enter into a lease for capital maintenance improvements if, before a lease that is only for capital maintenance improvements is executed, the general form of the lease is approved by concurrent resolution of the legislature concurred in by a majority of the members elected to and serving in each house. The form of the lease approved by the legislature need not contain a description of the capital maintenance improvements to be leased or the rental or a rental range. However, before this state executes the lease, the description of the capital maintenance improvements to be leased and the rental shall be approved by the state administrative board.

(5) The building authority shall retain title to capital maintenance improvements during the term of a lease approved under subsection (4). The building authority shall not be required to have any ownership interest in the structure to which a capital maintenance improvement is made. Title to the capital maintenance improvement shall be evidenced by a bill of sale.

(6) The actual rental to be paid under a lease approved under subsection (4) for a capital maintenance improvement shall be determined by an appraiser or by an alternate method and, after the determination, shall be approved by the state administrative board and the building authority. The state administrative board shall approve any alternate method for determining actual rental, and an alternate method may include a determination by a person or business that is in the business of providing capital maintenance improvements to institutions of higher education.