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BILL ANALYSIS

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Senate Bills 379 through 384 (as introduced 4-22-03)

Sponsor: Senator Patricia L. Birkholz (S.B. 379)
Senator Laura M. Toy (S.B. 380)
Senator Alan Sanborn (S.B. 381)
Senator Jud Gilbert, II (S.B. 382)
Senator Raymond E. Basham (S.B. 383)
Senator Jim Barcia (S.B. 384)

Committee: Local, Urban and State Affairs

Date Completed: 5-22-03

CONTENT

The bills would amend various statutes to do the following:

- **Revise provisions regarding the annexation and detachment of city, village, township, or charter township territory.**
- **Prescribe procedures, including a referendum, for the annexation of territory in which there were 100 or fewer residents.**
- **Provide for negotiated annexation agreements.**
- **Revise procedures for the annexation of territory that has no residents.**
- **Revise provisions for the annexation of city-owned territory in a township.**
- **Require that certain conditions be met for the detachment of territory.**
- **Provide for a referendum on the annexation of charter township territory by a city or village, and on the annexation of territory by a village.**

Senate Bills 379 through 382 and 384 are tie-barred to each other and to Senate Bill 383.

Senate Bill 379

Overview

The bill would amend the Home Rule City Act to provide for a referendum or a negotiated agreement on the annexation to a city from a township of any territory with 100 or fewer residents. The bill also would establish conditions for the detachment of territory from a city to a township. Further, the bill would establish methods for the annexation to a city

of city-owned property located in a township. The bill also provides that incorporation as a city by a village would not be an annexation under the Act.

Annexation: 100 or Fewer Residents

Under the Act, with certain exceptions, a petition or resolution for annexation of territory by a city must be filed with the State Boundary Commission, and must be submitted as prescribed in the Act. After determining the validity of the petition or resolution, the Commission must hold a public hearing in or near the area proposed for annexation. The Commission must approve, deny, or revise the petition or resolution. If more than 100 people resided in the territory approved for annexation on the date the petition or resolution was filed, the Commission must order a referendum on the question of annexation.

Currently, if an annexation is approved, and if on the date the petition or resolution was filed 100 or fewer people resided in the area approved for annexation, the Commission's order is not subject to a referendum. The Commission must send a certified copy of its order to the clerk of each county, city, village, and township affected and to the Secretary of State. The annexation is effective on a date set forth in the Commission's order. The bill would delete these provisions. Instead, a Commission order concerning the annexation of territory in which 100 or fewer people resided would be subject to the procedures and conditions provided in Section 9c, proposed by the bill.

Under the bill, a city, property owner, or registered elector who intended to petition the Commission for annexation of territory with 100 or fewer residents to a city from a township, would have to provide written notice of that intent by certified mail, return receipt requested, to the clerk of any city or township that was affected by the proposal and to the Commission. The Commission would have to dispose of that petition before processing any other petitions that dealt with all or part of the same territory.

The city and township could negotiate an agreement concerning the annexation of the territory that included an agreement not to contest the annexation petition before the Commission, the sharing of tax revenues, the future land use of the territory, and any other factors or terms that might be considered or provided for in a contract negotiated under Public Act 425 of 1984 (which permits the conditional transfer of property by contract between local units of government), or in an interlocal agreement negotiated under the Urban Cooperation Act. If the governing bodies of a city and township approved by resolution an agreement to annex, or not to contest the annexation of, territory in the township before a petition for annexation were filed with the Commission, the proposed procedures for the annexation of township territory with 100 or fewer residents would not apply, and a petition for annexation could be filed at any time. If the township territory met current requirements in the Act regarding annexation of property adjacent to a city (and consisting of property owned by the city or consisting of fractional parts of platted subdivision lots), an annexation could proceed, as provided in the Act, by a vote of the legislative bodies of the local units involved in the annexation.

Forty five days after the receipt of a notice of intent to annex, if no agreement had been reached between the city and the township, a petition for annexation of territory could be filed in the Lansing office of the Commission. On the same day that the petition was filed, the petitioner would have to send a copy by certified mail, return receipt requested, to the clerks of both the city and the township. The city or the township could file a claim within 10 days after the 45-day period expired, in the circuit court, asserting that the other party did not participate in negotiations in good faith. If the court found that the city or township did not negotiate in good faith, it

could provide appropriate equitable relief, including prohibiting the annexation for a period of up to two years or prohibiting a referendum.

If, within 30 days after a township clerk received a petition for annexation, a petition for a referendum on the question of annexation containing the signatures of at least 25% of the registered electors in the affected township were filed with the county election commission, the county election commission would have to certify that the referendum petition met the requirements for petitions under the Michigan Election Law, and call a special election in the township within which the territory proposed for annexation was located. The governing body of the city also could schedule a referendum on the annexation, to be held in the city on the same day as the township referendum. Up to 30 days after the referendum petition was filed, the governing body of the city or township could adopt a resolution to delay the scheduling of the referendum in order to give the city and township time to continue negotiations concerning the annexation. When the governing body of the city or township adopted such a resolution, the scheduling of the referendum would be delayed until 90 days after the date on which the referendum petition was certified.

The county election commission could not meet to schedule the referendum until 30 days after the referendum petition was filed. The special election would have to be held between 60 and 90 days after the county election commission met to schedule the election, unless a primary or regular election, or a special election called for another purpose, occurred during that time. In that event, the referendum would have to be submitted at that primary, regular, or special election and an additional special election could not be called.

If the city and the township reached an agreement 30 days before the date of a scheduled election, the referendum could not be held. If no agreement were reached, the referendum would have to be held as ordered by the county election commission. The annexation could occur only if a majority of the electors voting on the issue in the township within which the territory proposed for annexation were located, and in the city if it held an election, counted separately, voted for the annexation. If a majority of the

electors voting on the issue in the township and in the city (if it held an election) voted for the annexation, and the State Boundary Commission approved the annexation, the Commission would have to send a certified copy of its order to the clerk of each county, city, and township affected and to the Secretary of State. The annexation would be effective on a date set in the Commission's order.

If a petition for a referendum on the question of annexation were not filed with the county election commission, the State Boundary Commission would have to process the annexation petition under the general provisions in the Act that provide for annexation.

Detachment

The Act sets forth conditions under which territory may be detached from a city. Under the bill, these conditions would apply to the detachment of territory from a city to another city or village.

The bill would add Section 9e to provide that territory could be detached from a city to a township only if all the following conditions were met:

- The territory to be detached did not contain any real property owned by the city, except for utilities and other facilities located within a public right-of-way.
- The territory to be detached was not annexed within the previous two years, calculated from the date that the most recent annexation of that territory, if any, was completed.
- The detachment was approved by a majority vote of the qualified electors, counted separately, in the territory proposed to be detached from the city, the remaining portion of the city, and the township.

Other Provisions

Currently, where the territory proposed to be annexed to any city is adjacent to it, and consists of a park or vacant property located in a township and owned by the city, and there is no one residing there, the territory may be annexed to the city solely by resolution of the city council. The bill would delete this provision. Under the bill, if the territory proposed to be annexed to a city

were located in a township, had no residents, and were adjacent to and owned by the city, the territory could be annexed under one of the following methods:

- If the city council adopted a resolution to annex the territory before the bill's effective date, and the territory consisted of park or vacant property, the territory could be annexed solely by a resolution of the council.
- If the city council adopted a resolution to annex the territory on or after the bill's effective date, and the territory would be used for a public purpose for a period beginning with the adoption of the resolution and lasting at least eight years, the territory would be annexed by that resolution of the city council. Territory would be considered used for a public purpose if it were exempt from property taxes. The township from which property was annexed could file a petition with the Commission at any time within the eight-year period, alleging that the property annexed was not being used for a public purpose. If the Commission found after a hearing on the petition that the property was not being used for a public purpose, the Commission would have to issue and enter in its records an order that the property be reattached to the township.
- By the affirmative majority votes of both the city council and the township board.

The bill also provides that incorporation as a city by a village would not be an annexation under the Act.

Senate Bill 380

The bill would add Section 5b to the Home Rule Village Act to provide that territory could be detached from a village to a township only if all the following conditions were met:

- The territory to be detached did not contain any real property owned by the village, except for utilities and other facilities located within a public right-of-way.
- The territory was not annexed within the previous two years.
- The detachment was approved by a majority vote of the qualified electors, counted separately, in the territory proposed to be detached, the remaining portion of the village, and the township.

The bill also provides that a county board of commissioners could not approve a proposed annexation if the proposal were disapproved by the board or rejected by the voters within two years before the date a petition was filed.

Currently, a county board of commissioners must submit to the voters a question of making a proposed incorporation, consolidation, or change of boundaries of a village. After the commissioners approve a petition, the question must be submitted to the voters at the next general election, if one is to occur within 40 days. The bill would increase the time from 40 to 60 days.

The bill also provides that incorporation as a city by a village would not be an annexation under the Act.

Senate Bill 381

The bill would amend Public Act 191 of 1968, which prescribes the powers and duties of the State Boundary Commission, to provide that a petition or resolution for annexation of territory in a township with 100 or fewer residents would be subject to the referendum and election process provided for in Section 9c of the Home Rule City Act (as proposed in Senate Bill 379).

Senate Bill 382

The bill would amend Revised Statute 16 of 1846, which prescribes the powers and duties of general law townships, to establish conditions that would apply to detachments of territory to a township, and annexation of township territory with 100 or fewer residents from a township.

Under the bill, the annexation of any territory with 100 or fewer residents to a city or village from a township would be subject to the following:

- In the case of annexation to a city, Section 9c of the Home Rule City Act.
- In the case of annexation to a general law village, Section 6b of the General Law Village Act (which is proposed by Senate Bill 383).
- In the case of annexation to a home rule village, Sections 4 and 5 of the Home Rule Village Act (which provide for the annexation of territory by a home rule village).

The bill provides that the detachment of any territory from a city or village to a township would be subject to the following:

- In the case of detachment from a city, Section 9e of the Home Rule City Act (proposed by Senate Bill 379).
- In the case of detachment from a general law village, Section 6d of the General Law Village Act (proposed by Senate Bill 383).
- In the case of detachment from a home rule village, Section 5b of the Home Rule Village Act (proposed by Senate Bill 380).

Senate Bill 383

The bill would add Section 6b to the General Law Village Act to prohibit a village from annexing territory from any other village or a city, township, or charter township unless the question of the annexation had been voted upon by the voters in the territory proposed for annexation, if any, and the balance of each city, village, township, or charter township affected by the annexation voting independently.

If a vote were required, the annexation would have to be considered defeated if a majority of the electors voting independently on the issue in the annexing village, the territory proposed for annexation, or the balance of the city, village, township, or charter township within which the territory proposed for annexation was located, voted against the annexation. Otherwise, the annexation would be considered approved and effective when the county board of commissioners entered an order approving the annexation.

Senate Bill 384

Overview

The bill would amend the Charter Township Act to revise procedures for the annexation of property to a city or village from a charter township. The bill also would provide for a referendum on the annexation of township territory to a city or village. The bill specifies that annexation of any territory with 100 or fewer residents from a charter township, and detachments of territory to a charter township, would be subject to certain procedures set forth in the Home Rule City Act, the Home Rule Village Act, and the General Law Village Act (as proposed by Senate Bills 379, 380, and 383).

Exemption from Annexation; Exceptions

Under the Act, a charter township that complies with specified standards is exempt from annexation to any contiguous city or village. The charter township must have a state equalized valuation of at least \$25 million; have a minimum population density of 150 people per square mile; provide fire and police protection service; provide water and sewer services and solid waste disposal; and be governed by a comprehensive zoning ordinance or master plan. The Act makes certain exceptions to the exemption from annexation.

Currently, the State Boundary Commission may, under procedures initiated and conducted pursuant to the Home Rule City Act, order a portion or portions of a charter township to be annexed as necessary to eliminate freestanding islands of the charter township completely surrounded by an annexing city, or to straighten or align the exterior boundaries of the city or village so that the charter township and city or village contain uniform straight boundaries wherever possible. The bill specifies that annexation under these provisions, of any territory with more than 100 residents from a charter township to a city, would be subject to the requirements set forth in Section 9(5) of the Home Rule City Act. (Section 9(5) prescribes the conditions under which the Commission's approval of an annexation is final unless a petition that contains the signatures of at least 25% of the registered electors in the territory approved for annexation, in the annexing city, or in the balance of the township, is filed. The Commission must order a referendum on the annexation in each area from which a valid petition is filed.)

Currently, a portion of a charter township that is contiguous on all sides with a city or village may be annexed by that city or village with the approval of a majority of the electors in that portion of a charter township. Under the bill, this would apply to a charter township with more than 100 residents.

Under the bill, if the territory to be annexed in either of the methods described above had 100 or fewer residents, the annexation would be subject to the following:

- In the case of annexation to a city, Section 9c of the Home Rule City Act (proposed by Senate Bill 379).

- In the case of annexation to a general law village Section 6b of the General Law Village Act (proposed by Senate Bill 383).
- In the case of annexation to a home rule village, subject to Sections 4 and 5 of the Home Rule Village Act (which provide for the annexation of territory by a home rule village).

Under conditions specified in the Act, a charter township board and the council or board of a city or village may vote to agree to an annexation. The bill provides that the agreement could include an agreement described in Section 9c(3) of the Home Rule City Act. (As proposed by Senate Bill 379, that Section would allow a city and township to negotiate an annexation agreement that included an agreement not to contest the annexation petition before the Commission, the sharing of tax revenues, the future land use of the territory, and any other factors or terms that might be considered or provided for in a contract negotiated under Public Act 425 of 1984, or in an interlocal agreement negotiated under the Urban Cooperation Act.)

Annexation Referendum

The bill provides that a city, village, property owner, or registered elector who intended to petition for annexation of territory to a city or village from a township would have to provide written notice of that intent by certified mail, return receipt requested, to the clerk of any city, village, or township that was affected by the proposal.

The city or village and the township could negotiate an agreement concerning the annexation of the territory that included an agreement to the sharing of tax revenues, the future land use of the territory, and any other factors or terms that might be considered or provided for in a contract negotiated under Public Act 425 of 1984, or in an interlocal agreement negotiated under the Urban Cooperation Act.

Forty five days after receipt of the notice of intent to annex, if no agreement had been reached between the city or village and the township, a petition for annexation of territory could be filed. On the same day that the petition was filed, the petitioner would have to send a copy by certified mail, return receipt requested, to the clerks of both the city or village and the township. The city or village or the township could file a claim within 10 days

after the 45-day period expired, in the circuit court, asserting that the other party did not participate in negotiations in good faith. If the court found that the city or village or the township did not negotiate in good faith, it could provide appropriate equitable relief, including prohibiting the annexation for up to two years or prohibiting a referendum.

If, within 30 days after a township clerk received a petition for annexation, a petition for a referendum on the question of annexation that contained the signatures of at least 25% of the registered electors in the affected township were filed with the county election commission, the county election commission would have to certify that the referendum petition met the requirements for petitions under the Michigan Election Law, and place the issue on the ballot at the same election at which the question of the proposed annexation was presented, as provided in the Act. If an agreement were reached 30 days before the date of an election, the referendum would have to be held as provided in Section 34(5) of the Charter Township Act. (Section 34(5) provides that a portion of a charter township contiguous to a city or village may be annexed to the city or village upon the filing with the county clerk of a petition signed by 20% of the registered electors in the area to be annexed and approval by a majority of the electors voting on the question in the city or village to which the portion is to be annexed, and the portion of the township that is to be annexed.)

If a petition containing sufficient valid signatures for a referendum or an annexation question were not filed with the county election commission, the election would have to take place as provided in Section 34(5).

If a petition containing sufficient valid signatures for a referendum on the question of annexation were filed with the county election commission, the annexation could occur only if a majority of the electors voting on the issue in the annexing city or village, in the territory proposed for annexation, and in the balance of the township within which the territory proposed for annexation was located, voted for the annexation.

Detachment

The bill provides that detachment of any territory from a city or village to a charter township would be subject to the following:

- In the case of detachment from a city, Section 9e of the Home Rule City Act (proposed by Senate Bill 379).
- In the case of detachment from a general law village, Section 6d of the General Law Village Act (proposed by Senate Bill 383).
- In the case of detachment from a home rule village, Section 5b of the Home Rule Village Act (proposed by Senate Bill 380).

MCL 117.9 et al. (S.B. 379) 78.4 et al. (S.B. 380)

123.1011b (S.B. 381)

Proposed MCL 41.104a (S.B. 382)

MCL 74.6 et al. (S.B. 383)

42.34 (S.B. 384)

Legislative Analyst: George Towne

FISCAL IMPACT

To the extent that the bills would reduce the rate of annexations or amount of property annexed, the bills would minimally slow the rate at which revenues may increase for local units that annex, and minimally slow any revenue losses for local units that lose property under an annexation. It is expected that the net effect would negligibly slow the rate of growth in local unit revenues. To the extent that tax changes under annexations affect property tax credits, the bills should negligibly reduce the rate of growth in property tax refunds. Similar effects would result to the extent that the bills would increase the rate of detachments.

This estimate is preliminary and will be revised as new information becomes available.

Fiscal Analyst: David Zin

S0304/s379sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.