

SENATE BILL No. 379

April 22, 2003, Introduced by Senator BIRKHOLZ and referred to the Committee on Local, Urban and State Affairs.

A bill to amend 1909 PA 279, entitled "The home rule city act," by amending sections 9 and 9b (MCL 117.9 and 117.9b), section 9 as amended by 1984 PA 352 and section 9b as added by 1982 PA 465, and by adding sections 9c, 9d, and 9e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) ~~In the event of a conflict between~~ **If** the
2 provisions of this act and ~~Act No. 191 of the Public Acts of~~
3 ~~1968, being sections 123.1001 to 123.1020 of the Michigan~~
4 ~~Compiled Laws~~ **1968 PA 191, MCL 123.1001 to 123.1020**, regarding
5 an incorporation or consolidation **conflict**, the provisions of
6 ~~Act No. 191 of the Public Acts of 1968~~ **1968 PA 191,**
7 **MCL 123.1001 to 123.1020**, shall govern. The district to be
8 affected by ~~every such~~ a proposed incorporation, consolidation,
9 or change of boundaries shall be deemed to include the whole of

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1 each city, village, or township from which territory is to be
2 taken or to which territory is to be annexed. However, ~~when~~ **if**
3 a territory is proposed to be incorporated as a city only the
4 residents of the territory to be incorporated shall vote on the
5 question of incorporation. ~~When~~

6 **(2) If** a petition signed ~~by the~~ **on behalf of this** state by
7 the appropriate agency designated by the state administrative
8 board ~~which~~ **that** holds the record legal title to the entire
9 area of the land in the territory adjacent to the city to be
10 annexed ~~—~~ is filed with the governing body of the city and with
11 the township board of the township in which ~~such~~ **the** territory
12 is situated, ~~such~~ **the** annexation may be accomplished by the
13 affirmative majority vote of the governing body of ~~such~~ **the**
14 city and the approval of the township board of ~~such~~ **the**
15 township.

16 **(3)** ~~(2)~~ Except as provided in subsections ~~(1)~~ **(2)** and
17 ~~(8)~~ **(9)**, a petition or resolution for annexation of territory
18 shall be filed in the Lansing office of the state boundary
19 commission. The commission, after determining the validity of
20 the petition or resolution, shall hold a public hearing in or
21 reasonably near the area proposed for annexation. The commission
22 in processing and approving, denying, or revising a petition or
23 resolution for annexation shall have the same powers and duties
24 and **shall** be in accordance with and subject to the provisions of
25 ~~Act No. 191 of the Public Acts of 1968, relating to petitions~~
26 ~~which propose incorporations~~ **1968 PA 191, MCL 123.1001 to**
27 **123.1020. Except as otherwise provided in subsection (8), a**

1 commission order concerning the annexation of territory in which
2 100 or fewer persons resided on the date the petition or
3 resolution for annexation was filed is subject to the provisions
4 of section 9c.

5 (4) ~~(3)~~ If an annexation is denied by the commission, the
6 commission shall send a certified copy of its order to the clerk
7 of each county, city, village, and township affected.

8 ~~(4) If an annexation is approved, and if on the date the~~
9 ~~petition or resolution was filed 100 persons or less resided in~~
10 ~~the area approved for annexation, the commission's order shall~~
11 ~~not be subject to a referendum. The commission shall send a~~
12 ~~certified copy of its order to the clerk of each county, city,~~
13 ~~village, and township affected and to the secretary of state.~~
14 ~~The annexation shall be effective on a date set forth in the~~
15 ~~commission's order.~~

16 (5) If an annexation is approved, and if on the date the
17 petition or resolution was filed more than 100 persons resided in
18 the area approved for annexation, the commission shall send a
19 certified copy of its order to the clerk of each county, city,
20 village, and township affected and to the secretary of state.

21 ~~The~~ **Except as otherwise provided in subsection (10), the**
22 commission's order shall become final 30 days after the date of
23 the order unless within that 30 days a petition is filed with the
24 commission ~~which~~ **that** contains the signatures of at least 25%
25 of the registered electors residing in the portion of the
26 territory approved for annexation, in the annexing city, or in
27 the balance of the township. ~~The commission after~~ **After**

1 verifying the validity of any referendum petition, **the commission**
2 shall order that a referendum on the question of annexation be
3 held in each area from which a valid petition was filed. If a
4 valid petition is not filed within the 30 days or if the majority
5 of the electorate voting on the question in each area in which a
6 referendum was held, voting separately, approve the annexation,
7 **except as otherwise provided in subsection (10)**, the annexation
8 shall be effective on a date set by order of the commission,
9 otherwise the annexation shall not take effect.

10 (6) The commission shall ~~reject~~ **process petitions or**
11 **resolutions for annexation as follows:**

12 (a) **Reject** a petition or resolution for annexation of
13 territory ~~which~~ **that** includes all or any part of the territory
14 ~~which~~ **that** was described in any petition or resolution for
15 annexation filed within the preceding 2 years and ~~which~~ **that**
16 was denied by the commission or was defeated in an election
17 pursuant to subsection (5) **or (10) or section 9c.**

18 (b) **If a notice of intent to petition the commission for**
19 **annexation has been provided by a city, a property owner, or**
20 **qualified electors under section 9c(2), finally dispose of an**
21 **annexation petition of the city, property owner, or qualified**
22 **electors that has been so noticed before processing any other**
23 **petitions that deal with all or any part of the same territory.**

24 (7) In addition to the methods for initiating annexation as
25 provided in this act, a petition or resolution ~~as follows~~ may
26 be submitted to the state boundary commission in a form and
27 manner prescribed by ~~it~~ **the state boundary commission as**

1 follows:

2 (a) By resolution of the legislative body of the city to
3 which the area is proposed to be annexed.

4 (b) By petition by the persons, firms, corporations, the
5 United States government, or ~~the~~ **this** state or any ~~of its~~
6 ~~subdivisions~~ **political subdivision of this state** who
7 collectively hold equitable title as a vendee under a recorded
8 land contract or memorandum of land contract, or record title **as**
9 **recorded fee owner** to 75% or more of the area of the land,
10 exclusive of streets, in the territory proposed for annexation at
11 the time ~~of filing~~ the petition **is filed**.

12 (c) By petition by 20% of the registered electors who reside
13 in the area proposed for annexation.

14 (8) ~~Where the territory proposed to be annexed to any city~~
15 ~~is adjacent to the city and consists of a park or vacant property~~
16 ~~located in a township and owned by the city annexing the same,~~
17 ~~and there is no one residing thereon, such territory may be~~
18 ~~annexed to the city solely by resolution of the city council of~~
19 ~~the city or in any case where~~ **Notwithstanding the provisions of**
20 **section 9c, if the territory proposed to be annexed to a city is**
21 **located in a township, has no residents, and is adjacent to and**
22 **owned by the city proposing to annex the territory, the territory**
23 **may be annexed under 1 of the following methods:**

24 (a) If a resolution to annex the territory is adopted by the
25 city council before the effective date of the amendatory act that
26 added section 9c, and the territory consists of park or vacant
27 property, the territory may be annexed solely by that resolution

1 of the city council.

2 (b) If a resolution to annex the territory is adopted by the
3 city council on or after the effective date of the amendatory act
4 that added section 9c, and the territory will be used for a
5 public purpose for a period that begins with the adoption of the
6 resolution and lasts not less than 8 years, the territory is
7 annexed by that resolution of the city council. For the purpose
8 of this subdivision, territory is used for a public purpose if it
9 is exempt from the collection of taxes under the general property
10 tax act, 1893 PA 206, MCL 211.1 to 211.157. The township from
11 which property is annexed under this subdivision may file a
12 petition with the commission at any time within the 8-year period
13 beginning with the adoption of the resolution, alleging that the
14 property annexed is not being used for a public purpose. If the
15 commission finds after a hearing on the petition that the
16 property is not being used for a public purpose, the commission
17 shall issue and enter in its records an order that the property
18 be reattached to the township from which it was annexed.

19 (c) By the affirmative majority votes of both the city
20 council and the township board.

21 (9) If the territory proposed to be annexed is adjacent to
22 ~~the~~ a city and consists of property owned by the city or
23 consists of fractional parts of platted subdivision lots, located
24 in an adjoining city, village, or township, ~~such~~ **the** annexation
25 may ~~also~~ be accomplished by the affirmative majority vote of
26 the legislative body of ~~such~~ **the** city and the approval of the
27 legislative body of ~~such~~ **the** adjoining city, village, or

1 township. As an alternate method, ~~where~~ **if** there are no
 2 qualified electors residing in the territory proposed to be
 3 annexed to the city ~~—~~ other than the person or persons
 4 petitioning, a petition signed by a person or persons, firms,
 5 corporations, the United States government, or ~~the~~ **this** state
 6 or any ~~of its subdivisions~~ **political subdivision of this state**
 7 who collectively hold the equitable title as a vendee under a
 8 recorded land contract or memorandum of land contract ~~—~~ or
 9 record legal title **as recorded fee owner** to more than 1/2 of the
 10 area of the land in the territory to be annexed is filed with the
 11 city council of the city and with the township board of the
 12 township in which ~~such~~ **that** territory is situated, ~~such~~ **the**
 13 annexation may be accomplished by the affirmative majority vote
 14 of the city council of ~~such~~ **the** city and the approval of the
 15 township board of ~~such~~ **the** township. At least 10 days prior to
 16 the approval by the township board, the township treasurer shall
 17 notify, personally or by registered mail with return receipt
 18 ~~demanded~~ **requested**, the owners of all real property in the
 19 territory to be annexed as shown on the assessment rolls of the
 20 township at the last known address on file with the township
 21 treasurer. ~~This section shall not be construed so as to give~~
 22 ~~any city the authority to~~

23 (10) **Except as otherwise provided in subsection (9), a city**
 24 **shall not** proceed ~~hereunder~~ **under this section** to attach
 25 territory from any other city unless the question ~~relative~~
 26 ~~thereto~~ **of the annexation** has been ~~voted upon~~ **approved** by the
 27 voters of the entire cities affected. ~~—, except as hereinbefore~~

1 ~~specifically provided, where the territory proposed to be annexed~~
2 ~~is adjacent to a city and consists of property owned by the city~~
3 ~~or consists of fractional parts of platted subdivision lots,~~
4 ~~located in an adjoining city.~~

5 (11) ~~-(9)-~~ The provisions of section 14 ~~shall~~ **are** not ~~be~~
6 applicable to an annexation approved ~~by the commission~~ **under**
7 **this section** of part of a township or village to a city except in
8 the event of outstanding bonds or other evidences of indebtedness
9 of the township or village. In ~~such~~ **that** event, the **state**
10 **boundary** commission shall determine and order an equitable
11 division of assets and liabilities ~~which~~ **that** relate to the
12 bonds or other indebtedness.

13 (12) ~~-(10)-~~ The provisions of sections 8 and 8a ~~shall~~ **are**
14 not ~~be~~ applicable to petitions or resolutions filed with the
15 state boundary commission.

16 (13) ~~-(11) After March 31, 1971, and so long as Act No. 191~~
17 ~~of the Public Acts of 1968 is in effect, annexation~~ **Annexation**
18 of territory **from a village, or of territory with more than 100**
19 **residents** from a township, ~~or village~~ to a home rule city shall
20 be as provided in this section and no other means of annexation
21 ~~shall be~~ **is** effective.

22 (14) **Territory may be annexed to a city from a township only**
23 **if the territory to be annexed does not contain any real property**
24 **owned by the township, except for utilities and other facilities**
25 **that are located within a public right-of-way.**

26 (15) **The incorporation as a city by a village is not an**
27 **annexation under this act.**

1 Sec. 9b. (1) ~~In addition to the detachment procedures~~
2 ~~otherwise authorized by this act, territory~~ **Territory** may be
3 detached from a city **to another city or village only** if all of
4 the following conditions are met:

5 (a) The territory to be detached was annexed to the city
6 after the city was incorporated.

7 (b) The territory to be detached is to be reattached to the
8 municipality from which that territory was annexed.

9 (c) The city does not provide water or sewer service in the
10 territory to be detached.

11 (d) The council of the city from which the territory is being
12 detached approves a resolution authorizing the detachment of the
13 territory and confirming an agreement relating to the
14 detachment.

15 (e) The legislative body of the municipality from which the
16 territory to be detached was annexed approves a resolution
17 authorizing detachment of the territory and confirming an
18 agreement related to the detachment.

19 (2) The city and municipality involved in a detachment under
20 ~~this section~~ **subsection (1)** may enter into an intergovernmental
21 agreement ~~which~~ **that** imposes conditions on the detachment. The
22 conditions may include, but need not be limited to, building
23 restrictions and zoning within the territory to be detached.

24 (3) Territory detached under ~~this section~~ **subsection (1)** is
25 immediately reannexed to the detaching city if any of the
26 following occurs:

27 (a) The city can and agrees to provide water and sewer

1 services, the city certifies these facts to the state boundary
2 commission, and the state boundary commission finds that the city
3 can provide water and sewer services to this territory.

4 (b) The municipality to which the territory was reattached
5 fails to comply with the intergovernmental agreement, the city
6 certifies that fact to the state boundary commission, and the
7 state boundary commission finds that the municipality is not in
8 compliance.

9 (4) Reannexation pursuant to subsection (3) ~~shall~~ **is** not
10 ~~be~~ subject to the annexation requirements and restrictions of
11 this act ~~;~~ ~~Act No. 191 of the Public Acts of 1968, being~~
12 ~~sections 123.1001 to 123.1020 of the Michigan Compiled Laws; or~~
13 ~~Act No. 359 of the Public Acts of 1947, being sections 42.1 to~~
14 ~~42.34 of the Michigan Compiled Laws~~ **or any of the following:**

15 (a) 1968 PA 191, MCL 123.1001 to 123.1020.

16 (b) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.

17 (5) All or part of territory detached under ~~this section~~
18 **subsection (1)** shall not be subject to annexation.

19 **Sec. 9c. (1) The annexation of any territory with 100 or**
20 **fewer residents to a city from a township for which a petition is**
21 **filed with the commission on or after the effective date of the**
22 **amendatory act that added this section is subject to the**
23 **procedures and conditions set forth in this section, except as**
24 **provided in section 9d.**

25 (2) A city, property owner, or registered electors that
26 intend to petition the state boundary commission for annexation
27 of territory with 100 or fewer residents to a city from a

1 township shall provide written notice of that intent by certified
2 mail, return receipt requested, to the clerk of any city or
3 township that is affected by the proposal and to the state
4 boundary commission.

5 (3) The city and township may negotiate an agreement
6 concerning the annexation of the territory that includes, but is
7 not limited to, an agreement not to contest the annexation
8 petition before the commission, the sharing of tax revenues, the
9 future land use of the territory, and any other factors or terms
10 that may be considered or provided for in a contract negotiated
11 under 1984 PA 425, MCL 124.21 to 124.30, or an interlocal
12 agreement negotiated under the urban cooperation act of 1967,
13 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

14 (4) Forty-five days after receipt of the notice under
15 subsection (2), if no agreement has been reached under subsection
16 (3) between the city and the township concerning the proposed
17 annexation, a petition for annexation of territory may be filed
18 in the Lansing office of the state boundary commission. On the
19 same day that the petition is filed, the petitioner shall send a
20 copy of the petition by certified mail, return receipt requested,
21 to the clerks of both the city and the township in which the
22 territory is located.

23 (5) If no agreement is reached within 45 days after receipt
24 of the notice under subsection (2), the city or the township may
25 file a claim not later than 10 days after the expiration of that
26 period in the circuit court asserting that the other party did
27 not participate in negotiations in good faith. If the court

1 finds that the city or township did not participate in
2 negotiations in good faith, it may provide appropriate equitable
3 relief, including, but not limited to, prohibiting the annexation
4 for a period of not more than 2 years or prohibiting the
5 referendum provided for in subsection (6).

6 (6) If, within 30 days after receipt by the clerk of the
7 township of the petition for annexation, a petition for a
8 referendum on the question of annexation is filed with the county
9 election commission that contains the signatures of at least 25%
10 of the registered electors in the affected township, based on the
11 most recent certification of the number of registered electors
12 made by the township clerk to the county clerk, the county
13 election commission shall certify that the referendum petition
14 meets the requirements for petitions under the Michigan election
15 law, 1954 PA 116, MCL 168.1 to 168.992, and call a special
16 election for the referendum to be held in the township within
17 which the territory proposed for annexation is located. If a
18 township referendum petition is certified, the governing body of
19 the city may also schedule a referendum on the annexation to be
20 held in the city on the same day as the township referendum. Up
21 to 30 days after the referendum petition is filed, the governing
22 body of the city or township may adopt a resolution to delay the
23 scheduling of the referendum to allow time for the city and
24 township to continue negotiations concerning the annexation.
25 Upon adoption of a resolution by the governing body of the city
26 or township, the scheduling of the referendum shall be delayed
27 until 90 days after the date on which the referendum petition is

1 certified. The county election commission shall not meet to
2 schedule the referendum until 30 days after the petition is
3 filed. The special election shall be held not less than 60 days
4 or more than 90 days after the county election commission meets
5 to schedule the election under this subsection, unless a primary
6 or regular election, or a special election called for another
7 purpose, occurs not less than 60 days or more than 90 days after
8 the referendum petition is filed. In that event, the referendum
9 shall be submitted at that primary, regular, or special election
10 and an additional special election shall not be called.

11 (7) If a petition containing sufficient valid signatures for
12 a referendum on the question of annexation is not filed with the
13 county election commission under subsection (6), the state
14 boundary commission shall proceed to process the annexation
15 petition under section 9.

16 (8) If an agreement under subsection (3) is reached 30 days
17 before the date of an election scheduled under subsection (6),
18 the referendum shall not be held. If no agreement is reached,
19 the referendum shall be held as ordered by the county election
20 commission. The annexation shall be allowed to occur only if a
21 majority of the electors voting on the issue in the township
22 within which the territory proposed for annexation is located,
23 and in the city if it holds an election under subsection (6),
24 counted separately, vote for the annexation.

25 (9) If a majority of the electors voting on the issue in the
26 township within which the territory proposed for annexation is
27 located, and in the city if it holds an election under

1 subsection (6), vote for the annexation, and the commission
2 approves the annexation under section 9(3), the commission shall
3 send a certified copy of its order to the clerk of each county,
4 city, and township affected and to the secretary of state. The
5 annexation shall be effective on a date set forth in the
6 commission's order.

7 (10) As used in this section, "commission" means the state
8 boundary commission established under 1968 PA 191, MCL 123.1001
9 to 123.1020.

10 Sec. 9d. If the governing bodies of a city and township
11 approve by resolution an agreement to annex, or not to contest
12 the annexation of, territory in the township with 100 or fewer
13 residents before a petition for annexation is filed with the
14 commission, the provisions of section 9c do not apply and a
15 petition for annexation may be filed at any time. If the
16 territory meets the requirements of section 9(9), the annexation
17 may proceed under section 9(9).

18 Sec. 9e. Notwithstanding any other provisions of this act,
19 territory may be detached from a city to a township only if all
20 of the following conditions are met:

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

24 (b) The territory to be detached was not annexed within the
25 previous 2 years, calculated from the date that the most recent
26 annexation of that territory, if any, was completed.

27 (c) The detachment is approved by a majority vote of the

1 qualified electors residing in each of the following, counted
2 separately:

- 3 (i) The territory proposed to be detached from the city.
- 4 (ii) The remaining portion of the city.
- 5 (iii) The township to which the territory will be attached.

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

- 9 (a) Senate Bill No. 383
10 .
- 11 (b) Senate Bill No. 380
12 .
- 13 (c) Senate Bill No. 384
14 .
- 15 (d) Senate Bill No. 382
16 .
- 17 (e) Senate Bill No. 381
18 .