



Sub. H.B. 24

125th General Assembly

(As Reported by H. County and Township Government)

Reps. Wolpert, McGregor, Flowers, Reidelbach, Seitz, Husted, Widowfield, Fessler, Olman, Daniels, Walcher, Ujvagi, Collier, Cirelli, Wagner, C. Evans, Schlichter, Sferra, Price

BILL SUMMARY

- Authorizes the Attorney General to institute legal action to dissolve certain villages upon the request of and specified findings of the Auditor of State.
- Requires a court of common pleas to dissolve certain villages when the court makes specified findings after the Attorney General proceeds with legal action to dissolve one of those villages.
- Requires a municipal corporation to have a population of over 100 persons in order for the municipal corporation to have a mayor's court.

CONTENT AND OPERATION

Current law

Under current law, a village may be dissolved when at least 40% of the electors of the village petition the legislative authority of the village for an election on the issue and the dissolution is approved by a majority of those voting on the issue. If dissolution is approved, the corporate powers of the village cease once the election results are certified to the Secretary of State and the county recorder. (Sec. 703.20--not in the bill.) After a petition for dissolution is filed with its legislative authority, a village cannot create any new liability until the result of the election is declared and, if the vote approves the dissolution, thereafter (sec. 703.21).

The surrender of corporate powers does not affect vested rights or accrued liabilities of the village, or its power to settle claims, dispose of property, or levy and collect taxes to pay existing obligations. Due and unpaid taxes may still be

collected once the corporate powers have been surrendered. All moneys and property remaining after the surrender belong to the township or townships located wholly or partly within the village. If more than one township is to receive the remaining money or property, it must be divided among the townships in proportion to the amount of territory that each township has within the village boundaries as compared to the total township territory within the village. (Sec. 703.21.)

Changes proposed by the bill

Villages to which new method applies

The bill creates an additional way for a village to be dissolved and surrender its corporate powers (sec. 703.201(D)). This new method is based upon the findings of the Auditor of State in an audit report and applies only to certain villages: those that have a population of 100 persons or less and consists of less than two square miles (hereafter, a covered village). Such a village must be found in an audit report to have met at least two of the following conditions (sec. 703.201(A)):

- The village has been declared to be in a fiscal emergency under the Local Government Fiscal Emergency Law and has been in fiscal emergency for at least three consecutive years with little or no improvement on the conditions that caused the fiscal emergency declaration.
- The village has failed to properly follow applicable election laws for at least two consecutive election cycles for any one elected village office.
- The village has been declared to be unauditible in at least two consecutive audits by the Auditor of State.¹
- The village does not provide at least two services typically provided by municipal government, such as police or fire protection, garbage collection, water or sewer service, emergency medical services, road maintenance, or similar services, but not including any administrative service or legislative action.

¹ *The bill references the provision of law requiring the Auditor of State to conduct audits of each public office at least biennially (sec. 117.11--not in the bill). The Auditor of State may determine that a public office is unauditible if its accounts, records, files, or reports have been improperly maintained (sec. 117.41--not in the bill).*

- The village has failed for any fiscal year to adopt the tax budget required under the Tax Levy Law;
- A village elected official has been convicted of theft in office, either under the Ohio Criminal Code or an equivalent criminal statute at the federal level, at least two times in a period of ten years. The convicted official can be the same person or different persons.

Procedure for dissolution

If the Auditor of State finds in an audit report of a covered village that the village meets at least two of the above conditions, the Auditor of State must send a copy of the audit report and a certified letter to the Attorney General requesting the Attorney General to institute legal action to dissolve the village in accordance with the bill. The report and letter must be sent to the Attorney General within ten business days after the Auditor of State transmits the report to the village. The audit report transmitted to the village must be accompanied by a notice to the village of the Auditor's intent to refer the report to the Attorney General for legal action. (Sec. 703.201(B).)

The Attorney General may file a legal action in the Franklin County Court of Common Pleas, within 20 days after receipt of the Auditor's report and letter, to request the dissolution of the village. If legal action is filed, the court must hold a hearing within 90 days after the date of filing the action. A notice of the hearing must be filed with the Attorney General, the clerk of the village subject to the action, and each clerk of any township located wholly or partly within the village.

At the hearing to dissolve the village, the court must determine that the village has a population of 100 persons or less and consists of less than two square miles (i.e., that it is a covered village), and that the Auditor of State's report shows at least two conditions for surrendering corporate powers. If the court makes these findings, it must order the dissolution of the village and provide for the disposition of assets in accordance with existing law (sec. 703.21--not in the bill) in the same manner as occurs after a surrender of corporate powers by petition of the electors. The Attorney General must file a certified copy of the court's order of dissolution with the Secretary of State and the county recorder of the county in which the village is situated. The Secretary of State and the county recorder must make a record of the certified court order in each of their respective offices. The corporate powers of the village cease upon the recording in the county recorder's office.

Determination of population

Under the bill, for purposes of this type of dissolution and surrender of corporate powers, the population of a village must be the population determined either at the last preceding federal decennial census or according to the population estimates certified by the Department of Development in non-census years. (Sec. 703.201(D).)

Debts of the village

Upon receipt of the audit report and notice, the legislative authority of the village cannot create any new liability until the court's decision is declared. If the court orders dissolution, the village can no longer incur debt. As with the current method for the dissolution of a village, all property remaining after settlement of debts belongs to the township or townships located in the village. (Sec. 703.21.)

Minimum population requirement for municipal corporations to have "mayor's courts"

In Ohio, "mayor's courts" may exist by virtue of the law conferring jurisdiction on the mayors of municipal corporations to hear and determine prosecutions involving violations of municipal ordinances and certain traffic violations. There is currently no population requirement for having a mayor's court in Ohio municipal corporations. The bill imposes a population requirement by conferring such jurisdiction only to mayors of municipal corporations having a population of more than 100. (Sec. 1905.01.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-30-03	p. 82
Reported, H. County & Township Gov't	03-20-03	p. 273

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