Bill Analysis

Elizabeth K. Mase *Legislative Service Commission*

H.B. 24

125th General Assembly
(As Introduced)

Reps. Wolpert, McGregor, Flowers, Reidelbach, Seitz, Husted

BILL SUMMARY

- Permits the board of county commissioners to dissolve some villages when the Auditor of State makes certain findings.

CONTENT AND OPERATION

Current law

Currently, 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 a majority of those voting on the issue approve the dissolution. If dissolution of the village is so approved, once the election results are certified to the Secretary of State and the county recorder, the corporate powers of the village cease. (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 a village's 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. Once a village's corporate powers have been surrendered, due and unpaid taxes may still be collected. 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 only applies to certain villages: those that have a population of 100 persons or less per square mile and consist 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 during an Auditor of State biennial or annual audit to be unauditable in at least two consecutive audits.[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.

- 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 involved can be the same person or different persons.

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[1] The bill references the biennial and annual audits the Auditor of State must conduct of each public office (sec. 117.11--not in the bill). The Auditor of State may determine that a public office is unauditable if its accounts, records, files, or reports have been improperly maintained (sec. 117.41--not in the bill).

Procedure for dissolution

If the Auditor of State finds in a biennial or annual 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 board of county commissioners of the county where the village is located. The letter must state the Auditor of State's findings relative to the surrender of village corporate powers and include a statement that the board must vote on the question of the village's dissolution. The report and letter must be sent to the board within ten business days after the Auditor of State transmits the report to the village in question. (Sec. 703.201(B).)

When the board of county commissioners receives the Auditor of State's report and letter, it must set a date for a vote on the surrender of the village's corporate powers, which date must be within 90 days after that receipt. The board's clerk must deliver a notice of the date and time of the vote to the village's clerk and the clerk of each township located within the village. Within 30 days of the vote, the board's clerk also must publish notice of the date and time in a newspaper of general circulation within the county, specifically identifying the village by name. (Sec. 703.201(C).)

To dissolve the village, the board must first determine that the village has a population of 100 persons or less per square mile 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 it so determines, the board then must vote on whether to dissolve the village. The village's corporate powers can be dissolved only by a unanimous vote. (Sec. 703.201(C).)

If the board unanimously votes to dissolve the village, the village's clerk must certify the result of that vote to the Secretary of State and the county recorder. Upon the county recorder's recording of the vote, the village's corporate powers shall cease. (Sec. 703.201(C).)

Debts of the village

Upon receipt of the audit report, the legislative authority of the village cannot create any new liability until the board of county commissioners votes on the issue of the dissolution of the village.[2] If there is a unanimous vote for

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[2] *Although the bill does not provide for it, there is an implication that, when the Auditor of State sends an audit report to the village, that report will indicate the Auditor of State also is sending it to the board of county commissioners together with a letter about a vote on the village's dissolution. Otherwise, since a village routinely receives copies of audit*

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.)

HISTORY

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reports, it would not be clear to a village that it must stop incurring debt. This may need to be clarified further.