

- (c) The levying and collection of village taxes.
- (d) That the subjects of taxation for municipal purposes shall be the same as for state, county, and school purposes under the general law.
- (e) An annual appropriation of money for municipal purposes.
- (f) The public peace and health, and for the safety of persons and property.
- (g) One or more election districts; subject to section 21, the time, place, and means of holding elections; and the registration of electors.
- (h) Keeping in the English language a written or printed journal of proceedings of the legislative body.
- (i) The publication of an ordinance or a synopsis of an ordinance before the ordinance becomes operative. Any charter provision to the contrary notwithstanding, a village may adopt an ordinance punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. Whether or not provided in its charter, a village may adopt a provision of any state statute for which the maximum period of imprisonment is 93 days, the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a plumbing code, electrical code, or building code that has been promulgated by this state, by a department, board, or other agency of this state, or by an organization or association that is organized and conducted for the purpose of developing that code, by making reference to that law or code in an adopting ordinance without publishing that law or code in full. The law or code shall be clearly identified in the ordinance, and a statement of the purpose of the law or code shall be published with the adopting ordinance. Printed copies of the law or code shall be kept in the office of the village clerk and made available to the public at all times. The publication shall contain a notice stating that a complete copy of the law or code is available to the public at the office of the village clerk. A village shall not enforce any provision adopted by reference for which the maximum period of imprisonment is greater than 93 days.
- (j) That the business of the legislative body shall be conducted at a public meeting of the body held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and all records of the municipality shall be available to the public under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (k) Adopting, continuing, amending, or repealing village ordinances.
- (l) A system of accounts that conforms to a uniform system required by law.

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) Senate Bill No. 877.
- (b) House Bill No. 4820.
- (c) House Bill No. 4822.
- (d) House Bill No. 4823.
- (e) House Bill No. 4824.

- (f) House Bill No. 4825.
- (g) House Bill No. 4827.
- (h) House Bill No. 4828.

Approved January 8, 2004.
Filed with Secretary of State January 8, 2004.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 877 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 298, Eff. Jan. 1, 2005.
House Bill No. 4820 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 299, Eff. Jan. 1, 2005.
House Bill No. 4822 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 300, Eff. Jan. 1, 2005.
House Bill No. 4823 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 301, Eff. Jan. 1, 2005.
House Bill No. 4824 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 302, Eff. Mar. 30, 2004.
House Bill No. 4825 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 303, Eff. Jan. 1, 2005.
House Bill No. 4827 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 305, Eff. Jan. 1, 2005.
House Bill No. 4828 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 306, Eff. Jan. 1, 2005.

[No. 305]

(HB 4827)

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," by amending sections 1, 3, 4, 5, 6, and 13 of chapter II, sections 1, 2, 3, and 7 of chapter III, section 3 of chapter V, section 23 of chapter IX, section 3 of chapter XII, and sections 18a and 23g of chapter XIV (MCL 62.1, 62.3, 62.4, 62.5, 62.6, 62.13, 63.1, 63.2, 63.3, 63.7, 65.3, 69.23, 72.3, 74.18a, and 74.23g), sections 1, 4, 5, 6, and 13 of chapter II, sections 2 and 7 of chapter III, and section 3 of chapter V as amended and section 3 of chapter III as added by 1998 PA 255 and section 3 of chapter XII and section 18a of chapter XIV as amended and section 23g of chapter XIV as added by 1998 PA 254.

The People of the State of Michigan enact:

CHAPTER II

62.1 Village officers; council.

Sec. 1. (1) Except as provided in subsections (2) and (3), in each village, the following officers shall be elected: a president, 6 trustees, 1 clerk, and 1 treasurer. The president and trustees constitute the council. In all votes for which not less than a majority vote of the council is required, the calculation of the number of votes required shall be based on the maximum number that constitutes the council.

(2) The council by a vote of 2/3 of the members of the council may provide by ordinance for the reduction in the number of trustees to 4 who with the president shall constitute the council. If village trustees are elected biennially for staggered 4-year terms, the ordinance shall as nearly as possible maintain staggered terms and provide for an equal number of seats to be filled at each election. The ordinance may extend but shall not

shorten the term of an incumbent trustee. The ordinance may extend a prospective term. The ordinance shall not shorten or eliminate a prospective term unless the nomination deadline for that term is not less than 30 days after the effective date of the ordinance. An ordinance adopted under this subsection shall satisfy both of the following conditions:

(a) The ordinance shall be voted on and adopted at a meeting that occurs not less than 10 days after the initial meeting or public hearing at which the ordinance was considered.

(b) Notice of each meeting at which the ordinance is considered indicating that an ordinance reducing the size of the council will be 1 of the subjects of the meeting shall be published not less than 10 days before the meeting in a newspaper of general circulation in the village.

(3) The council by a vote of 2/3 of the members of the council may provide by ordinance for the nomination by the president and the appointment by the council of the clerk or the treasurer, or both, for a term as the ordinance may provide. The ordinance shall apply beginning with the first term the nomination deadline for which would have been not less than 30 days after the effective date of the ordinance or shall apply when the office is vacated, whichever occurs first.

(4) The council shall provide that an ordinance adopted under subsection (2) or (3) takes effect 45 days after the date of adoption unless a petition signed by not less than 10% of the registered electors of the village is filed with the village clerk within the 45-day period, in which case the ordinance takes effect upon approval at an election held on the question. Notice of the delayed effect of the ordinance and the right of petition under this subsection shall be published separately at the same time, and in the same manner, as the ordinance is published as provided in section 4 of chapter VI. The village clerk shall verify the signatures on the petitions. If a petition bearing the required number of valid signatures of electors is filed, the question of adoption of the ordinance shall be submitted at the next general or special election. The ballot language for the question shall be prepared by the village clerk, unless the question concerns the appointment of the clerk under subsection (3), in which case the ballot language shall be prepared by the village council.

(5) A village that has adopted an ordinance reducing the number of trustees to 4 or providing for the appointment by the council of the clerk or treasurer may increase the number of trustees to 6 or provide for the election of the clerk or treasurer by the same process as provided in subsection (2) or (3), respectively, and in subsection (4).

62.3 Appointments; time.

Sec. 3. Except for an appointment to fill a vacancy or unless a different time is prescribed in the ordinance or resolution creating the office, an appointment to a village office shall be made at the first village council meeting after the qualification of a council member who is elected at the village's regular election. If, for any cause, an appointment is not made at that meeting or on the day prescribed in the ordinance or resolution creating the office, the appointment may be made at a subsequent regular or special meeting of the council.

62.4 Term of office.

Sec. 4. Unless otherwise provided by ordinance, the president, clerk, and treasurer hold their respective offices for the term of 2 years and until their successors are elected and qualified. The term of office for a president, clerk, or treasurer elected at the village's regular election begins on 1 of the following dates:

(a) If the regular election is held at the general election, November 20 after the officer's election and qualification.

(b) If the regular election is held at the September primary election, October 1 after the officer's election and qualification.

62.5 Village trustees; term of office.

Sec. 5. Except as otherwise provided in this section, 3 village trustees shall be elected at each biennial village election for the term of 4 years and until their successors are qualified. As an alternative, if provided by an ordinance adopted by the village before January 1, 1974, all 6 village trustees shall be elected at the biennial village elections for the term of 2 years and until their successors are qualified. The term of office for a trustee elected at the village's regular election begins on 1 of the following dates:

(a) If the regular election is held at the general election, November 20 after the officer's election and qualification.

(b) If the regular election is held at the September primary election, October 1 after the officer's election and qualification.

62.6 Appointive officers; term.

Sec. 6. Except for an officer appointed to fill a vacancy in an elective office, an appointive village officer holds the office for 2 years after the date of the appointment or until the village's next regular election, whichever is earlier, and until the officer's successor is appointed and qualified unless a different term of office is prescribed in this act, in an ordinance authorized by this act, or in the ordinance or resolution creating the office. An officer appointed to fill a vacancy in an elective office shall hold office until the next regular village election, and until his or her successor is elected and qualified. An officer appointed to fill a vacancy in an appointive office shall hold office until his or her successor is appointed and qualified.

62.13 Vacancies; filling; special elections; procedure; expenses.

Sec. 13. A vacancy occurring in the office of president, trustee, or any other elective office shall be filled by appointment by the council, and the appointee shall hold office until the next regular village election. All vacancies in any other office shall be filled by the president, by and with the consent of the council. If by reason of removal, death, resignation, or otherwise, the membership of the council is reduced to less than a quorum, the remaining council members shall call a special election for the purpose of filling all vacancies in the office of trustee, if a petition signed by not less than 10% of the qualified voters of the village is filed with the village clerk within 10 days after the vacancy or vacancies occur. If a petition is not filed within the time stated, then the remaining council members may either call a special election, or may appoint a sufficient number of trustees to constitute with the members in office a quorum of the council, who shall then fill the remaining vacancies as provided in this section. If all the officers and trustees of a village have died or moved from the village, and no successors have been elected or appointed to fill the vacancies, the township clerk of the township within which the village is situated shall, upon petition of 10% of the qualified voters residing in the village, call a special election for the election of the officers and trustees of the village to be held on a regular election date as established under section 641 of the Michigan election law, 1954 PA 116, MCL 168.641. The township shall perform all of the other duties with respect to the election as the village might have done had the vacancies not existed, including the preparation of ballots, the appointment of election inspectors, the counting and canvassing of the ballots, and the certification of the persons elected to the offices for which the election was held. The expenses of the election shall be paid by the village as provided in section 642 of the Michigan election law, 1954 PA 116, MCL 168.642.

CHAPTER III

63.1 Election; place.

Sec. 1. (1) An election under this act shall be held at a place in the village as the council designates.

(2) Notwithstanding a charter provision or ordinance providing otherwise, the day on which a village holds its regular or a special election is governed by the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, or by a resolution adopted in compliance with section 642 of the Michigan election law, 1954 PA 116, MCL 168.642.

63.2 Special election; resolution.

Sec. 2. Special elections may be called by resolution of the council. The resolution shall state the purpose and object of and, subject to section 1 of this chapter, the date of the election.

63.3 Village elections as nonpartisan.

Sec. 3. Notwithstanding a charter provision or ordinance to the contrary, village elections shall be nonpartisan.

63.7 Conduct of election; designation of term on ballot.

Sec. 7. (1) All elections in the village shall be conducted as nearly as may be in the manner provided by the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, for holding general elections in the state, except as provided in this act.

(2) If at any election vacancies are to be filled, or if any person is to be elected for less than a full term of office, the term shall be designated on the ballot.

CHAPTER V

65.3 Village council; president pro tempore.

Sec. 3. (1) On 1 of the following dates each year, or as soon after that date as possible, the council shall appoint 1 of their number president pro tempore of the council:

(a) If the village's regular election is held at the general election, each November 20.

(b) If the village's regular election is held at the September primary election, each October 1.

(2) In the absence of the president, the president pro tempore presides at the council meetings, and exercises the powers and duties of president. In the absence of the president and president pro tempore, the member with the longest current period of continuous service on the council presides unless otherwise provided by council rules.

CHAPTER IX

69.23 Bonds; approval of electors required; exemption of certain bonds and obligations; expenses.

Sec. 23. (1) Subject to subsection (2), a village shall not issue bonds unless the issuance is approved by a majority of the electors voting on the bond issuance at a regular or special village election. The election shall be conducted in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(2) Subsection (1) does not apply to any of the following:

(a) Obligations incurred by the village evidenced by contracts, notes, or assessments.

(b) Special assessment bonds.

(c) Bonds for the portion of the cost of local improvements to be paid by the village at large not to exceed 40% of the cost of the improvements.

(d) Emergency bonds.

(e) Bonds that the council is authorized by specific statute to issue without a vote of the electors.

(3) The expenses of the election shall be paid by the village as provided in section 642 of the Michigan election law, 1954 PA 116, MCL 168.642.

CHAPTER XII

72.3 Authorized village lighting; acquisition estimate; referendum; restriction on council.

Sec. 3. (1) To exercise the powers granted by section 1 of this chapter, the council shall adopt a resolution declaring that it is expedient for the village to acquire by purchase or construction, as applicable, works to supply the village with electric or other lights, and shall make and record in their proceedings an estimate of the expense.

(2) The question of financing the estimated amount or that part of the estimated amount not in excess of limitations on indebtedness of the village provided by law shall be submitted to the electors of the village at its regular election, or at a special election called for that purpose by the council as provided in this act. Approval of the proposal requires the affirmative vote of 2/3 of the electors voting at the election by ballot.

(3) If the voters approve financing a part of the estimated amount not in excess of the limitations on indebtedness of the village, the council shall not incur any indebtedness for lighting works on the general faith and credit of the village until the charter is amended to permit the issuance of mortgage bonds on the proposed lighting plant, its revenues and franchise, in excess of the general limitations on indebtedness as provided by this act, in an amount equal to the difference between the indebtedness authorized by this act, and the estimated amount.

CHAPTER XIV

74.18a Disincorporation of village; procedure.

Sec. 18a. (1) To initiate the disincorporation of a village, a petition signed by not less than 15% of the registered electors of the village requesting a vote on the question of whether the village shall disincorporate shall be filed with the township clerk.

(2) A petition shall designate the township or townships into which the village is proposed to be disincorporated. A village shall be disincorporated into the township or townships in which it is located, along existing township boundaries.

(3) After the petition is filed with the township clerk a petition affecting the village shall not be filed with the state boundary commission and a petition requesting disincorporation of the village into a different township shall not be filed under this act until the disincorporation process provided for by this act has concluded.

(4) By not more than 14 days after the petition is filed, the township clerk shall verify the signatures and determine the sufficiency of the petition. Unless the council proceeds under sections 23 to 23i of this chapter, if the clerk determines that the petition is sufficient, the question of the disincorporation of the village shall appear on the ballot at the next general or special election to be held in the village, subject to the Michigan

election law, 1954 PA 116, MCL 168.1 to 168.992. The township clerk shall prepare the ballot language, in substantially the following form:

“Shall incorporation of the village of _____ be vacated?

() Yes

() No”.

(5) The county election commission of the county in which the greatest number of electors of the village reside shall provide ballots for the election.

(6) The clerk and election officials of each township into which the village is proposed to be disincorporated shall conduct the election on the proposed disincorporation in the village and the portions of the township outside the boundaries of the village, respectively.

(7) If the election on the proposed disincorporation is to be held in conjunction with a general election or a state primary election immediately before a general election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the county in which the greatest number of electors of the village reside shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(8) The results of the election on the proposed disincorporation shall be canvassed by the board of canvassers of the village and the board of canvassers of each township in which the village is located.

(9) The disincorporation of the village shall take place under this section only if 2/3 of the electors voting on the questions vote “yes”. If the disincorporation is approved, the council shall immediately cause a transcript of all the proceedings in the case to be certified to both of the following:

(a) The county clerk of the county in which the village or the principal part of the village is located.

(b) The secretary of state.

74.23g Disincorporation plan; approval; ballot; form; special election; failure of commission to adopt plan.

Sec. 23g. (1) If the disincorporation plan is approved under section 23f of this chapter, the clerk of the disincorporation commission shall prepare and certify to the county clerk of each county where the village is located ballot language describing the proposed disincorporation and that includes the following in substantially the following form:

“Shall the village of _____ be disincorporated pursuant to the plan adopted by the disincorporation commission?

() Yes

() No”.

(2) The clerk of the disincorporation commission shall certify the proposed disincorporation for inclusion on the ballot at the next general election, the state primary immediately preceding the general election, or a special election not occurring within 45 days of a state primary or a general election, as specified by the clerk of the disincorporation commission. However, the clerk of the disincorporation commission shall not certify the proposed disincorporation for inclusion on the ballot at either of the following:

(a) An election to be held less than 60 days after the date of certification.

(b) An election to be held more than 1 year after the township clerk verifies the petition signatures and determines that the petition is sufficient under section 18a of this chapter.

(3) If a special election is requested by the clerk of the disincorporation commission, the county clerk of the county in which the greatest number of electors of the village reside shall schedule the election in compliance with section 641 of the Michigan election law, 1954 PA 116, MCL 168.641. The proposal shall be submitted to the qualified and registered electors residing in the village and each township into which the village is proposed to be disincorporated at that election.

(4) If a disincorporation commission fails to adopt a plan under section 23e of this chapter or the clerk of the disincorporation commission does not certify the proposed disincorporation for inclusion on the ballot under this section, the question of disincorporation shall be submitted to the electors as described in section 18a of this chapter not more than 1 year after the date the disincorporation petition was filed under section 18a of this chapter.

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) Senate Bill No. 877.
- (b) House Bill No. 4820.
- (c) House Bill No. 4822.
- (d) House Bill No. 4823.
- (e) House Bill No. 4824.
- (f) House Bill No. 4825.
- (g) House Bill No. 4826.
- (h) House Bill No. 4828.

Approved January 8, 2004.

Filed with Secretary of State January 8, 2004.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 877 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 298, Eff. Jan. 1, 2005.
House Bill No. 4820 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 299, Eff. Jan. 1, 2005.
House Bill No. 4822 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 300, Eff. Jan. 1, 2005.
House Bill No. 4823 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 301, Eff. Jan. 1, 2005.
House Bill No. 4824 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 302, Eff. Mar. 30, 2004.
House Bill No. 4825 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 303, Eff. Jan. 1, 2005.
House Bill No. 4826 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 304, Eff. Jan. 1, 2005.
House Bill No. 4828 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 306, Eff. Jan. 1, 2005.

[No. 306]

(HB 4828)

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 2, 12, 16, 17, 21, 32, 34, 34a, 36, 37, 38, 39, 42, 51, 52, 54, 55, 56, 57, 58, 59, 62, 83, 84, 86, 105, 107, 122, 144, and 152 (MCL 389.2,

389.12, 389.16, 389.17, 389.21, 389.32, 389.34, 389.34a, 389.36, 389.37, 389.38, 389.39, 389.42, 389.51, 389.52, 389.54, 389.55, 389.56, 389.57, 389.58, 389.59, 389.62, 389.83, 389.84, 389.86, 389.105, 389.107, 389.122, 389.144, and 389.152), section 2 as added by 1998 PA 153, sections 17, 21, 34, 37, 42, 54, 57, and 62 as amended and section 86 as added by 2000 PA 488, section 34a as amended by 1982 PA 381, section 83 as amended by 1992 PA 20, section 122 as amended by 2002 PA 72, section 144 as amended by 2002 PA 73, and section 152 as amended by 1990 PA 11; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

389.2 Violation of Michigan election law applicable to petitions; penalties.

Sec. 2. A petition under section 83 or 152, including the circulation and signing of the petition, is subject to the Michigan election law. A person who violates a provision of the Michigan election law applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law.

389.12 Organizational election; time of holding.

Sec. 12. (1) If approval of a proposed community college district is filed with the school district filing official at least 77 days but not more than 6 months before the next general state election, the school district filing official shall include the necessary community college propositions with the proceedings for the general election.

(2) If approval of a proposed community college district is filed with the school district filing official more than 6 months before the next general state election, the school district filing official shall call a special election for the purpose of submitting to the electors the propositions relating to the establishment of the community college district to be held on the next regular election day that is not less than 77 days after the approval is filed.

389.16 Organizational elections; conduct.

Sec. 16. The general election laws, including the voting of absent voters, the days on which elections are held, the hours for the opening and closing of the polls at elections, and provisions for preserving the purity of elections and for preventing fraud and corruption, govern all elections under this act so far as the same are applicable and not inconsistent with this act. County and local election officials shall perform their election duties for regular and special elections held in accordance with this chapter, including the proper giving of notices of registration and election.

389.17 Organizational election; canvass of results.

Sec. 17. Subject to section 24a of the Michigan election law, MCL 168.24a, the county board of canvassers shall conduct the canvass of the results of an organizational election or other election of a community college district organized under this chapter.

389.21 Annexations to district; procedure.

Sec. 21. (1) By adoption of a resolution, the board of trustees of a community college district organized under this chapter may initiate annexation to the community college district, in the manner provided in this act, of a contiguous county, contiguous township, contiguous intermediate school district, or contiguous local school district not already included within the area of a community college district, subject to the following:

(a) A community college district located in the Upper Peninsula may annex a county, township, intermediate school district, or local school district that is not contiguous.

(b) A community college district that has been offering classes at a federal military installation located in a noncontiguous county for a period of at least 20 years may annex that noncontiguous county or that portion of the noncontiguous county that is not within another community college district.

(2) Before an annexation election, the board of trustees shall obtain approval of the proposed annexation from the superintendent of public instruction. Upon receipt of the approval, the secretary of the board of trustees shall file certified copies of the annexation resolution and the approval with the clerk of the county or township to be annexed, or the secretary of the board of the intermediate school district or local school district and the school district filing official of the school district to be annexed, as applicable.

(3) After the resolution and approval are filed under subsection (2), the county board of commissioners, the township board, or the board of the intermediate or local school district, as applicable, shall request that the school district filing official call a special election for the purpose of voting on the question of annexation to the community college district and of approving the maximum tax rate existing in the community college district. A special election called under this subsection shall be held on a regular election day that is not less than 49 days after the special election is requested.

(4) An annexation is effective on the date of the election if both propositions receive majority approval of the electors voting on the propositions. The final results of the annexation election shall be canvassed by the appropriate board of canvassers as provided in section 24a or 30a of the Michigan election law, MCL 168.24a and 168.30a.

(5) By virtue of annexation, unless otherwise provided in the approved annexation propositions, territory annexed to a community college district is subject to taxes levied for principal and interest of outstanding bonded indebtedness of the community college district.

(6) If a portion of a county, township, or intermediate or local school district to be annexed lies within a community college district at the time of the annexation election, then the electors residing in that territory are not eligible to vote on the propositions and that territory does not become a part of the community college district.

389.32 Filing copy of approval; inclusion of community college propositions in proceedings for annual election; special election; approval by majority of electors.

Sec. 32. (1) If 2 or more school districts file resolutions to organize a community college district, the secretary of the board of education of the intermediate school district shall file a copy of the approval specified in section 31 with the secretary of the board of education of each component school district and the school district filing official. If the filing with each component school district and the school district filing official, or receipt of approval from the state board of education by the secretary of the board of education of a single school district, occurs at least 60 days but not more than 6 months before the next annual school election, the school district filing official shall include the necessary community college propositions in the proceedings for the annual election.

(2) If the approval is filed with the school district filing official of the component school districts or approval is received by the secretary of the board of education of a single school district more than 6 months before the date of the next school election, each board of education shall call a special election to be held in not less than 60 days on a regular election day. A majority of the electors of the school district voting on the propositions shall approve the organization of the community college district.

389.34 Community college district consisting of single school district; board of trustees; election and terms of members.

Sec. 34. (1) If the community college district consists of a single school district, the community college district is directed and governed by a board of trustees consisting of 7 members, elected at large in the territory of the district or proposed district on a nonpartisan basis. At the organizational election, the electors shall elect 3 members for 6-year terms, 2 for 4-year terms, and 2 for 2-year terms. After the initial terms, at the next regular community college election immediately preceding the expiration of a member's term of office, the electors shall elect the member's successor for a term of 6 years.

(2) If an organizational election is held at the same time as a regular school election in May, the term of office of each member elected shall commence on July 1 following the organizational election. If the regular school election is held in November, the term of each member elected shall commence on the January 1 following the organizational election.

(3) If an organizational election is held on a date other than the date of a regular school election, each board member shall take office on the fifteenth day following the date of the organizational election. Regular terms of office shall commence on July 1 following the next regular school election in May. If the next regular school election is held in November, the regular terms of office shall commence on the January 1 following the annual school election. If the organizational election is held on a date other than the regular election date of the component school district, the first year of the term of office of each of the members elected to the first board of trustees shall extend for the period of time remaining until July 1 or January 1, whichever is applicable under this subsection, following the date of the regular election of the component district held not less than 1 year nor more than 2 years after the date of the organizational election.

389.34a Community college district consisting of 2 or more school districts; board of trustees; election and terms of members.

Sec. 34a. (1) If the community college district consists of 2 or more school districts, the community college district shall be directed and governed by a board of trustees consisting of 7 members, elected at large in the proposed community college district on a nonpartisan basis. At the organizational election, there shall be elected 3 members for 6-year terms, 2 members for 4-year terms, and 2 members for 2-year terms. Thereafter, at the next regular community college election immediately preceding the expiration of their terms of office, their successors shall be elected for terms of 6 years.

(2) If the organizational election is held at the same time as the regular school election in May, the term of office of each member elected shall commence on July 1 following the organizational election. If the regular school election is held in November, the term of each member elected shall commence on the January 1 following the organizational election.

(3) If the organizational election is held on a date other than the date of the regular school election, each board member shall take office on the fifteenth day following the date of the organizational election. Regular terms of office shall commence on July 1 following the next regular school election in May. If the next regular school election is held in November, the regular terms of office shall commence on the January 1 following the regular school election. If the organizational election is held on a date other than the regular school election, the first year of the term of office of each of the members elected to the first board of trustees shall extend for the period of time remaining until July 1 or January 1, whichever is applicable under this subsection, following the date of the regular school election.

389.36 Vote eligibility.

Sec. 36. If part of a local school district is in another community college district, only those electors residing in that part of the school district not in the other community college district are eligible to vote in the organizational election or in subsequent community college elections.

389.37 Canvass of election results.

Sec. 37. The appropriate board of canvassers under section 24a or 30a of the Michigan election law, MCL 168.24a and 168.30a, shall conduct a canvass of the results of an election under this chapter. The board of canvassers shall conduct the canvass within 3 days of the election.

389.38 Regular community college elections; day held; separate propositions.

Sec. 38. (1) The regular community college election shall be held at the same time as the regular school elections of the constituent school districts held on the day determined under section 642 of the Michigan election law, MCL 168.642. If any component school district holds its annual school election on a different date, the board of such district shall call a special election to be held on the same day as that prescribed by this subsection.

(2) At the regular elections 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.

389.39 Community college district special elections.

Sec. 39. (1) The board of trustees of a community college district organized under this chapter may request that the school district filing official call a special election. The secretary of the board shall file a copy of the resolution of the board requesting the call of a special election with the secretaries of each component local and intermediate school district, the school district filing official, and the clerk of each component county, as applicable, at least 60 days before the date of the election. The request to the school district filing official and the resolution of the board shall contain a statement of the propositions to be submitted to the electors.

(2) The board of education of each component local and intermediate school district and the clerk of each component county, as applicable, shall request that the school district filing official call the special election on the regular election day specified in the resolution of the board of trustees.

389.42 District or county annexation; date; procedure.

Sec. 42. (1) In the annexation of a local school district, if the resolution and approval are filed with the secretary more than 90 or less than 21 days before the date of a regular school election, the board of education of the district shall request that the school district filing official call a special school election for voting on the annexation on the regular election day specified by the secretary of the board of trustees of the community college district. If the resolution and approval are filed more than 20 days but less than 91 days before the date of the regular school election, the board of education of the local school district shall request that the school district filing official submit the annexation proposition to the electors at the regular school election.

(2) In the annexation of an intermediate school district, the secretary of the intermediate school board of the intermediate school district in writing shall direct the

board of education of each component local school district to submit the annexation propositions to the electors of the school district. Each school district shall request that the school district filing official hold the election at the time of the regular school election if notification is given more than 20 but less than 91 days before the date of the regular school election. Otherwise, each board of education shall request that the school district filing official call a special election to consider the annexation propositions.

(3) In the annexation of a county, if the resolution and approval are filed more than 90 days or less than 21 days before the date of the next general election, the school district filing official shall call a special election within the county to consider the annexation propositions. If the resolution and approval are filed less than 91 days but more than 20 days before the next general election, then the annexation propositions shall be submitted to the electors of the county at that election.

389.51 Establishment of district; designation of territory; approval.

Sec. 51. The board of an intermediate school district or the boards of 2 or more contiguous intermediate school districts acting as a single board may form a community college district under this chapter. The board of the intermediate school district or joint board of the contiguous intermediate school districts shall designate the territory of the proposed community college district and refer the questions of organizing the community college district and the proposed annual tax rate to the superintendent of public instruction for approval. If the superintendent of public instruction approves, he or she shall notify the board of the intermediate school district or joint board, which shall request that the school district filing official include the necessary propositions for forming the community college district to the electors in the designated territory at the regular school election or at a special election called for that purpose.

389.52 Organizational election; filing time of holding; submission of propositions to electors.

Sec. 52. (1) The secretary of the board of the intermediate school district, or the secretary of the board of the intermediate school district having the highest valuation in the proposed community college district for a community college formed by 2 or more contiguous intermediate school districts, shall file a copy of the approval of the superintendent of public instruction, specified in section 51 together with the propositions to be submitted to the electors, with the secretary of the board of education of each component local school district and the school district filing official.

(2) If the secretary of a local school board receives the filing described in subsection (1) at least 60 days but not more than 6 months before the next regular school election, that secretary shall request that the school district filing official include the necessary community college propositions for forming the community college district with the proceedings for the regular school election.

(3) If the secretary of a component local school district receives the filing described in subsection (1) more than 6 months or less than 60 days before the date of the regular school election, the board of that district shall request that the school district filing official call a special election. At the special election, the propositions relating to the establishment of the community college district shall be submitted to the electors.

389.54 Board of trustees; number and terms.

Sec. 54. (1) A community college district is directed and governed by a board of trustees, consisting of 7 members except as provided in subsection (4), elected at large in the territory of the district or proposed district on a nonpartisan basis. At the

organizational election, the electors shall elect 3 members for 6-year terms, 2 for 4-year terms, and 2 for 2-year terms. After the initial terms, the electors shall elect members for 6-year terms.

(2) If an organizational election is held at the same time as a regular school election in May, the term of office of each member elected shall commence on July 1 following the organizational election.

(3) When an organizational election is held on a date other than the date of a regular school election, each board member shall take office on the fifteenth day following the date of the organizational election. Regular terms of office shall commence on July 1 following the next regular school election. If the organizational election is held on a date other than the regular election date of the component school districts, the first year of the term of office of each of the members elected to the first board of trustees shall extend for the period of time remaining until July 1 following the date of the regular election of the component districts held not less than 1 year nor more than 2 years from the date of the organizational election.

(4) If a contiguous county is annexed to a community college district under this chapter, the electors of the annexed county shall elect 2 additional members to the board of trustees of the community college district, elected at large in the annexed county on a nonpartisan basis for a term of 6 years. The term of office of an additional member shall commence 15 days after the date of certification of his or her election, at either a general election or a special election of the annexed county held within 6 months after the election approving of the annexation. Each additional member, and his or her replacement if a vacancy occurs during the 6-year term, shall be an elector of the annexed county. After the initial 6-year term, the 2 additional board positions are abolished, and the board of trustees shall consist of 7 members, elected as provided in subsection (1).

389.55 Establishment of community college district composed of intermediate school districts; annual tax rate.

Sec. 55. (1) A community college district is established under this chapter only if both of the following occur:

(a) A majority of the electors voting in the proposed community college district area approve the organization of the district.

(b) A board of trustees in the proper number is elected by a majority of the voting electors.

(2) A majority of the electors voting in the community college district shall approve of the proposition establishing the maximum annual tax rate for the community college district. If the proposition to establish the maximum annual tax rate does not receive the required vote of the electors, the proposition to establish the maximum annual tax rate may be resubmitted at a regular election or at a special election called by the school district filing official at the request of the board of trustees. If the proposition to establish the maximum annual tax rate fails after being submitted 3 times, the community college district is dissolved.

389.56 Community college district elections; voting eligibility.

Sec. 56. If part of a local school district is in another community college district, only those electors residing in that part of the school district not in the other community college district are eligible to vote in the organizational election and in subsequent elections of the community college district.

389.57 Community college district elections; canvass of results.

Sec. 57. The appropriate board of canvassers prescribed in section 24a or 30a of the Michigan election law, MCL 168.24a and 168.30a, shall conduct a canvass of the results of the election within 3 days after an election under this chapter.

389.58 Date of regular elections, regular school elections, and special elections; submission of special propositions and election of trustees at regular elections.

Sec. 58. (1) A regular community college election is held at the same time as the regular school election. A constituent county shall call a special election to be held on the date of the regular school election.

(2) At a regular election, in addition to the election of trustees, special propositions may be submitted to the electors when authorized by the board of trustees.

389.59 Special community college election; request by board of trustees.

Sec. 59. The board of trustees of a community college district organized under this chapter may request that the school district filing official call a special election. The secretary of the board shall file a copy of the resolution of the board calling a special election with the secretary of each component local and intermediate school district and the clerk of each component county, as applicable, at least 60 days before the date of the election. The resolution shall contain a statement of the proposition to be submitted to the electors. The board of education of each component local and intermediate school district and the clerk of each component county, as applicable, shall request that the school district filing official call the special election.

389.62 Election for annexations to district; date.

Sec. 62. (1) In an annexation of 1 or more local school districts, if the resolution and approval are filed with each secretary more than 90 or less than 21 days before the date of the regular school election, the board of education of each district shall request that the school district filing official call a special election for voting on the propositions of annexation. If the resolution and approval are filed more than 20 days but less than 91 days before the date of the regular school election, the board of education of each district shall request that the school district filing official submit annexation propositions to the electors at the regular school election.

(2) In an annexation of an intermediate school district, the secretary of the intermediate school board of the intermediate school district in writing shall direct the board of education of each component local school district to submit the annexation propositions to the electors of that component school district. Each school district shall request that the school district filing official call and hold the election at the time of the regular school election if notification is given to each school district more than 20 but less than 91 days before the date of the regular school election. Otherwise, each board of education shall request that the school district filing official call a special election to consider the annexation propositions.

(3) In an annexation of a county, if the resolution and approval are filed more than 90 or less than 21 days before the date of the next general election, the county clerk shall call a special election within the county to consider the annexation propositions. If the resolution and approval are filed less than 91 days but more than 20 days before the next

general election, then the annexation propositions shall be submitted to the electors of the county at that election.

389.83 Board of trustees; election and terms of members; nomination of candidate for trustee; contents, requirements, and filing of nominating petitions; validity of signatures; limitation; commencement of term; qualifications of candidate; effect of ceasing residency in trustee district; vacancies; special elections.

Sec. 83. (1) A member of the board of trustees of a community college established under this chapter shall be elected for a term of 6 years unless he or she is elected to fill a vacancy for the unexpired term under subsection (5).

(2) A candidate for trustee shall be nominated at a nonpartisan primary election conducted under the Michigan election law. The nominating petitions shall contain not less than 250 or more than 500 signatures of registered school electors of the appropriate trustee district and shall be filed with the school district filing official for the community college district on or before 4 p.m. of the twelfth Tuesday before the primary election. A signature on a nominating petition is not valid unless the petitioner is a registered school elector of the trustee district in which the candidate is running for election. The school district filing official may compare the signatures on the petitions with the signatures appearing on the registration records or in some other proper manner determine whether the signatures appearing on the petition are genuine and comply with the requirements of this section. Not more than 2 candidates shall be nominated at the primary election for each trustee district.

(3) Each of the 9 trustees shall commence his or her term of office on January 1 following his or her election.

(4) A candidate for the office of board member representing a trustee district or a person elected or appointed to fill a vacancy under subsection (5) shall be 18 years of age or older at the time of his or her election or appointment and shall be an elector residing in the trustee district in which the person becomes a candidate or which the person is appointed to represent. If a member representing a trustee district ceases to reside in the trustee district during the trustee's term of office, it is a vacating of office.

(5) If a vacancy occurs on the board of trustees, the vacancy shall be filled from among electors of the trustee district by majority vote of the remaining board members. If a person is appointed to fill a vacancy in a trustee district for which the unexpired term is more than 1 year and 8 months, that person shall serve until January 1 following the next general election. At that next general election the vacancy shall be filled for the unexpired term. A vacancy shall not be filled later than 60 days before a primary election at which voting district board members are to be nominated.

(6) Special elections may be called in the same manner as in chapters 1 and 2.

389.84 Annual tax rate; submission to electors; limitation.

Sec. 84. The board of trustees of a community college district formed under this chapter shall submit to the electors of the community college district the proposition to establish the maximum annual tax rate. If the proposition to establish the maximum annual tax rate fails to receive a proper majority of the electors voting in the community college district at the first election held for that purpose, the proposition to establish the maximum annual tax rate may be resubmitted at a regular election or at a special election called by the school district filing official at the request of the board of trustees for that

purpose. The board of trustees shall not request that the school district filing official call an election for that purpose more often than once in any 9-month period.

389.86 Annexation by district; action by board of education.

Sec. 86. (1) In the annexation of a local school district, if the resolution and approval are filed with the secretary more than 90 or less than 21 days before the date of the regular school election, the board of education of the district shall request that the school district filing official call a special election for voting on the propositions of annexation. If the resolution and approval are filed more than 20 days but less than 91 days before the date of the regular school election, the board of education of the district shall request that the school district filing official submit the annexation propositions to the electors at the regular school election.

(2) In the annexation of an intermediate school district, the secretary of the intermediate school board of the intermediate school district in writing shall direct the board of education of each component local school district to submit the annexation propositions to the electors of that component school district. Each school district shall request that the school district filing official call and hold the election at the time of the regular school election if notification is given more than 20 but less than 91 days before the date of the regular school election. Otherwise, each board of education shall request that the school district filing official call a special election to consider the annexation propositions.

389.105 Definitions.

Sec. 105. As used in this act:

(a) “Area”, in the term “area vocational-technical education program”, means the geographical territory of the district, and any territory outside of the district that is designated as the service area of the district by the superintendent of public instruction. A community college is eligible to receive state aid and assistance appropriated by the legislature for the aid and support of junior colleges or community colleges.

(b) “Area vocational-education program” means a program of organized systematic instruction designed to prepare the following individuals for useful employment in recognized occupations:

(i) An individual who has completed or left high school and who is available for full-time study in preparation for entering the labor market.

(ii) An individual who has already entered the labor market and who needs training to achieve stability or advancement in employment.

(iii) An individual enrolled in high school. If a program or course is provided for an individual enrolled in high school, the superintendent of the school district in which the individual is enrolled or his or her designated representative shall request that the program or course be provided to the individual.

(c) “Community college” means an educational institution providing collegiate and noncollegiate level education primarily to individuals above the twelfth grade age level within commuting distance. The term includes an area vocational-technical education program that may result in the granting of an associate degree or other diploma or certificate, but not an educational institution or program granting baccalaureate or higher degrees.

(d) “General election” or “general state election” means the term general election as defined in section 2 of the Michigan election law, MCL 168.2.

(e) “Michigan election law” means the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(f) “Regular election” means that term as defined in section 3 of the Michigan election law, MCL 168.3.

(g) “School district” means a school district, a local act school district, or an intermediate school district, as those terms are defined in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or a community college district under this act.

(h) “School district filing official” means the school district election coordinator as defined in section 4 of the Michigan election law, MCL 168.4, or an authorized agent of the school district election coordinator.

(i) “Special election” means that term as defined in section 4 of the Michigan election law, MCL 168.4.

389.107 Administering, conducting, and canvassing election and special election.

Sec. 107. (1) An election under this act shall be called, administered, conducted, and canvassed as provided in this act and the Michigan election law.

(2) A special election under this act shall be held on a regular election day established under section 641 of the Michigan election law, MCL 168.641.

389.122 Board of trustees; powers.

Sec. 122. The board of trustees may do all of the following:

(a) Borrow, subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for community college purposes, including capital expenditures, money on the terms it considers desirable and give notes of the district for those purposes. If a newly organized community college district borrows in anticipation of the collection of the first tax levy of the district, the loan shall not exceed 50% of the estimated amount of the first tax levy.

(b) Borrow, subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, money as it considers necessary and issue bonds of the community college district, to purchase sites for buildings, playgrounds, athletic fields, or agricultural farms; to purchase or erect and equip any building or buildings that it is authorized to purchase and erect; or to make any permanent improvement that it is authorized to make. A loan shall not be made and bonds shall not be issued for any sum that, together with the total outstanding bonded indebtedness of the district, including bonds voted but not issued, exceeds the total of 1-1/2% of the first \$250,000,000.00 plus 1% of the excess over \$250,000,000.00 of the last confirmed state equalized valuation of all taxable property in the district unless the proposition of making the loan or of issuing bonds has been submitted first to a vote of the qualified electors of the district, at a regular or special election, and approved by the majority of the electors voting at the election, in which event loans may be made or bonds may be issued in an amount not to exceed 15% of the total state equalized valuation of the district.

(c) Provide for energy conservation improvements to be made to community college facilities and pay for the improvements from operating funds of the district or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way

closures. The board of trustees may acquire 1 or more energy conservation improvements by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subdivision shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subdivision shall be full faith and credit, tax limited obligations of the community college district, payable from tax levies and the general fund as pledged by the board of trustees. The notes are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. This subdivision does not limit in any manner the borrowing or bonding authority of a community college as provided by law.

389.144 Levy and collection of taxes; use of funds; limitation; determination and certification of rate and amount of taxes; manner and time of levy and collection; summer property tax levy; applicability of subsection (3); disposition of money collected; subjects of taxation.

Sec. 144. (1) The board of trustees of each community college district may levy for the purposes specified as within the power of the board a tax that does not exceed the rate previously or subsequently authorized by the qualified electors of the district or the rate derived through the previous adoption by the electors of the district of former 1955 PA 188, or the rate that is allocated to the community college district in accordance with the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a. The funds may be used for all purposes authorized, except that to the extent permitted under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued may be imposed without limitation as to rate or amount. This limitation may be increased to not more than 5 mills if approved by a majority of the qualified electors voting on the question at a regular or special election of the community college district.

(2) Except as provided in subsection (3), the board of trustees shall determine the total taxes required for any year and shall certify the approved tax rate to be levied and the amount of taxes to be raised to the proper assessing officer of each city and township in which the territory of the community college district is situated on or before September 1 of each year, except that the board of trustees may provide by resolution that taxes to be raised against property within any city or township, any portion of which lies within the community college district boundaries, may be levied and collected in the same manner and at the same time as the city or township taxes or in the same manner and at the same time as school district or intermediate school district taxes are being collected by the city or township under part 26 of the revised school code, 1976 PA 451, MCL 380.1611 to 380.1615.

(3) By resolution of its board on or before May 15 of the year in which it is established, a community college district established under this act between January 1 and May 1 of any calendar year may impose a summer property tax levy of either the total or 1/2 of the community college district property taxes for that tax year. The board resolution shall also determine the total taxes required for that tax year and certify the approved tax rate to be levied and the amount of taxes to be raised to the proper assessing officer of each city or township in which the territory of the community college district is situated. Upon

receipt of that board resolution, each city and township in which the community college district is situated that collects a summer property tax levy under section 1613 of the revised school code, 1976 PA 451, MCL 380.1613, shall collect the summer levy for that year. The reasonable and actual expenses incurred by a city or township in collecting the community college district property taxes under this subsection, to the extent these expenses are in addition to the expense of collecting and assessing any other taxes at the same time and exceed the amount of any fees imposed for the collection of the community college property taxes, shall be billed to and paid by the community college district. For the purposes of this subsection, reasonable and actual expenses shall not exceed the current collection agreements negotiated with the largest intermediate school district within the community college district. This subsection applies until December 31, 1992.

(4) All money collected by a tax collecting officer from the tax levied under this section shall be returned to the community college district as provided by section 43 of the general property tax act, 1893 PA 206, MCL 211.43, or to the county treasurer who shall pay the taxes so returned immediately to the community college district.

(5) The subjects of taxation for the community college district purposes shall be the same as for state, county, and other school purposes as provided under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

389.152 Candidate for board of trustees; nominating petitions; signatures; filing; certification; canvass; notice; applicability of section.

Sec. 152. (1) Candidates for members of the first and succeeding boards shall be nominated by petition signed by not less than 50 or more than 200 qualified and registered electors residing within the geographic area of the community college district. All nominating petitions in community college districts organized under chapter 1 shall be filed not later than 4 p.m. on the one hundred-tenth day before the date of any election. All nominating petitions in community college districts organized under chapters 2 and 3 shall be filed not later than 4 p.m. on the ninth Monday before the date of any election. If the last day for filing nominating petitions falls on a Saturday, Sunday, or legal holiday, the nominating petitions shall be filed not later than 4 p.m. on the next day that is not a Saturday, Sunday, or legal holiday.

(2) Nominating petitions for the first and succeeding boards of trustees of a community college district organized under chapter 1 shall be filed with the school district filing official. Nominating petitions for the first and succeeding boards of trustees organized under chapters 2 and 3 shall be filed with the school district filing official.

(3) Upon the filing of nominating petitions with the school district filing official, he or she shall canvass them to ascertain if they have been signed by the requisite number of qualified electors and may check any doubtful signatures against the registration records of the clerk of any political subdivision in which the petitions were circulated, or may use any other method he or she deems proper for determining the validity of the doubtful signatures. If he or she determines that the nominating petitions of any candidate do not comply with the requirements or if the candidate does not possess the qualifications as required by the provisions of this act for membership on the board of trustees, the school district filing official shall notify the candidate of that fact and of the reasons.

(4) This section does not apply to nominating petitions for a candidate for a board of trustees organized under chapter 5.

Repeal of MCL 389.20, 389.40, and 389.60.

Enacting section 1. Sections 20, 40, and 60 of the community college act of 1966, 1966 PA 331, MCL 389.20, 389.40, and 389.60, are repealed.

Effective date.

Enacting section 2. This amendatory act takes effect January 1, 2005.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) Senate Bill No. 877.
- (b) House Bill No. 4820.
- (c) House Bill No. 4822.
- (d) House Bill No. 4823.
- (e) House Bill No. 4824.
- (f) House Bill No. 4825.
- (g) House Bill No. 4826.
- (h) House Bill No. 4827.

Approved January 8, 2004.

Filed with Secretary of State January 8, 2004.

Compiler's note: The bills referred to in enacting section 3 were enacted into law as follows:

Senate Bill No. 877 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 298, Eff. Jan. 1, 2005.
House Bill No. 4820 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 299, Eff. Jan. 1, 2005.
House Bill No. 4822 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 300, Eff. Jan. 1, 2005.
House Bill No. 4823 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 301, Eff. Jan. 1, 2005.
House Bill No. 4824 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 302, Eff. Mar. 30, 2004.
House Bill No. 4825 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 303, Eff. Jan. 1, 2005.
House Bill No. 4826 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 304, Eff. Jan. 1, 2005.
House Bill No. 4827 was filed with the Secretary of State January 8, 2004, and became P.A. 2003, No. 305, Eff. Jan. 1, 2005.

[No. 307]

(SB 648)

AN ACT to amend 1917 PA 167, entitled "An act to promote the health, safety and welfare of the people by regulating the maintenance, alteration, health, safety, and improvement of dwellings; to define the classes of dwellings affected by the act, and to establish administrative requirements; to prescribe procedures for the maintenance, improvement, or demolition of certain commercial buildings; to establish remedies; to provide for enforcement; to provide for the demolition of certain dwellings; and to fix penalties for the violation of this act," (MCL 125.401 to 125.543) by adding section 85a.

The People of the State of Michigan enact:

125.485a Site of illegal drug manufacturing; notification of potential contamination; determination of contamination; rules; order by local health department.

Sec. 85a. (1) A state or local law enforcement agency shall notify the enforcing agency and the department of environmental quality regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises.

(2) Within 14 days after receipt of the notification under subsection (1) or as soon thereafter as practically possible, the department of environmental quality, in cooperation with the enforcing agency, shall review the information received from the state or local law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that property or a dwelling has been used as a site for illegal drug manufacturing shall be treated by the department of environmental quality as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy those premises.

(3) If the property or dwelling, or both, is determined likely to be contaminated under subsection (2), the enforcing agency shall issue an order requiring the property or dwelling to be vacated until the property owner establishes that the property is decontaminated or the risk of likely contamination ceases to exist.

(4) The department of environmental quality shall promulgate rules and procedures necessary to implement this section.

(5) Nothing in this section precludes a local health department from exercising its powers or duties under this act or the public health code, 1978 PA 368, MCL 333.1101 to 333.25211. However, if there is a determination under subsection (2) that is contrary to an order made by a local health department, then the determination made under subsection (2) takes precedence.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2004.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 9, 2004.

[No. 308]

(SB 650)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of

governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 17766c (MCL 333.17766c), as added by 1994 PA 38.

The People of the State of Michigan enact:

333.17766c Possession of more than 12 grams of ephedrine or pseudoephedrine or mixture prohibited; violations; exceptions.

Sec. 17766c. (1) A person shall not possess more than 12 grams of ephedrine or pseudoephedrine alone or in a mixture.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(3) This section does not apply to any of the following:

(a) A person who possesses ephedrine or pseudoephedrine pursuant to a license issued by this state or the United States to manufacture, deliver, dispense, possess with intent to manufacture or deliver, or possess a controlled substance, prescription drug, or other drug.

(b) An individual who possesses ephedrine or pseudoephedrine pursuant to a prescription.

(c) A person who possesses ephedrine or pseudoephedrine for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

(d) A person who possesses ephedrine or pseudoephedrine in the course of his or her business of selling or transporting ephedrine or pseudoephedrine to a person described in subdivision (a) or (c).

(e) A person who, in the course of his or her business, stores ephedrine or pseudoephedrine for sale or distribution to a person described in subdivision (a), (c), or (d).

(f) Any product that the state board of pharmacy, upon application of a manufacturer, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(g) Possession of any pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2004.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 9, 2004.

[No. 309]**(SB 651)**

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 13n of chapter XVII (MCL 777.13n), as added by 2002 PA 30.

The People of the State of Michigan enact:

CHAPTER XVII

777.13n Applicability of chapter to certain felonies; MCL 333.10204(1) to 333.21792.

Sec. 13n. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.10204(1)	Pub ord	F	Transferring a human organ for valuable consideration	4
333.10204(4)	Pub saf	F	Removal of a human organ by an unauthorized individual	4
333.10205	Pub saf	F	Removal of a human organ in an unapproved facility	4
333.13738(2)	Pub saf	F	Waste disposal violations — second offense	5
333.13738(3)	Pub saf	F	Disposing of waste — indifference to human life	2
	Pub saf	B	Disposing of waste — extreme indifference to human life	20

333.16170(3)	Pub trst	F	False representation — health professional recovery program	4
333.16294	Pub saf	F	Health profession — unauthorized practice	4
333.17766c(2)	CS	G	Possession of more than 12 grams ephedrine or pseudoephedrine	2
333.20142(5)	Pub trst	F	False statement — application licensure health facility	4
333.21792	Pub trst	G	Nursing homes — referral fees/bribing officials/ accepting bribes	4

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2004.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 650 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 9, 2004.

Compiler's note: Senate Bill No. 650, referred to in enacting section 2, was filed with the Secretary of State January 9, 2004, and became P.A. 2003, No. 308, Eff. Apr. 1, 2004.

[No. 310]**(SB 649)**

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal

certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 7401c (MCL 333.7401c), as added by 2000 PA 314.

The People of the State of Michigan enact:

333.7401c Manufacture of controlled substance; prohibited acts; violation as felony; exceptions; imposition of consecutive terms; court order to pay response activity costs; definitions.

Sec. 7401c. (1) A person shall not do any of the following:

(a) Own, possess, or use a vehicle, building, structure, place, or area that he or she knows or has reason to know is to be used as a location to manufacture a controlled substance in violation of section 7401 or a counterfeit substance or a controlled substance analogue in violation of section 7402.

(b) Own or possess any chemical or any laboratory equipment that he or she knows or has reason to know is to be used for the purpose of manufacturing a controlled substance in violation of section 7401 or a counterfeit substance or a controlled substance analogue in violation of section 7402.

(c) Provide any chemical or laboratory equipment to another person knowing or having reason to know that the other person intends to use that chemical or laboratory equipment for the purpose of manufacturing a controlled substance in violation of section 7401 or a counterfeit substance or a controlled substance analogue in violation of section 7402.

(2) A person who violates this section is guilty of a felony punishable as follows:

(a) Except as provided in subdivisions (b) to (f), by imprisonment for not more than 10 years or a fine of not more than \$100,000.00, or both.

(b) If the violation is committed in the presence of a minor, by imprisonment for not more than 20 years or a fine of not more than \$100,000.00, or both.

(c) If the violation involves the unlawful generation, treatment, storage, or disposal of a hazardous waste, by imprisonment for not more than 20 years or a fine of not more than \$100,000.00, or both.

(d) If the violation occurs within 500 feet of a residence, business establishment, school property, or church or other house of worship, by imprisonment for not more than 20 years or a fine of not more than \$100,000.00, or both.

(e) If the violation involves the possession, placement, or use of a firearm or any other device designed or intended to be used to injure another person, by imprisonment for not more than 25 years or a fine of not more than \$100,000.00, or both.

(f) If the violation involves or is intended to involve the manufacture of a substance described in section 7214(c)(ii), by imprisonment for not more than 20 years or a fine of not more than \$25,000.00, or both.

(3) This section does not apply to a violation involving only a substance described in section 7214(a)(iv) or marihuana, or both.

(4) This section does not prohibit the person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section.

(5) A term of imprisonment imposed under this section may be served consecutively to any other term of imprisonment imposed for a violation of law arising out of the same transaction.

(6) The court may, as a condition of sentence, order a person convicted of a violation punishable under subsection (2)(c) to pay response activity costs arising out of the violation.

(7) As used in this section:

(a) “Hazardous waste” means that term as defined in section 11103 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11103.

(b) “Laboratory equipment” means any equipment, device, or container used or intended to be used in the process of manufacturing a controlled substance, counterfeit substance, or controlled substance analogue.

(c) “Manufacture” means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacture does not include any of the following:

(i) The packaging or repackaging of the substance or labeling or relabeling of its container.

(ii) The preparation or compounding of a controlled substance by any of the following:

(A) A practitioner as an incident to the practitioner’s administering or dispensing of a controlled substance in the course of his or her professional practice.

(B) A practitioner, or by the practitioner’s authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(d) “Minor” means an individual less than 18 years of age.

(e) “Response activity costs” means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(f) “School property” means that term as defined in section 7410.

(g) “Vehicle” means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2004.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 9, 2004.

[No. 311]

(SB 698)

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 13m of chapter XVII (MCL 777.13m), as amended by 2002 PA 711.

The People of the State of Michigan enact:

CHAPTER XVII

777.13m Applicability of chapter to certain felonies; MCL 333.7341(8) to 333.7410a.

Sec. 13m. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.7341(8)	CS	G	Delivery or manufacture of imitation controlled substance	2
333.7401(2)(a)(i)	CS	A	Delivery or manufacture of 1,000 or more grams of certain schedule 1 or 2 controlled substances	Life
333.7401(2)(a)(ii)	CS	A	Delivery or manufacture of 450 or more but less than 1,000 grams of certain schedule 1 or 2 controlled substances	30
333.7401(2)(a)(iii)	CS	B	Delivery or manufacture of 50 or more but less than 450 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(a)(iv)	CS	D	Delivery or manufacture of less than 50 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(b)(i)	CS	B	Delivery or manufacture of methamphetamine or 3, 4-methylenedioxymethamphetamine	20
333.7401(2)(b)(ii)	CS	E	Delivery or manufacture of certain schedule 1, 2, or 3 controlled substances	7
333.7401(2)(c)	CS	F	Delivery or manufacture of schedule 4 controlled substance	4

333.7401(2)(d)(i)	CS	C	Delivery or manufacture of 45 or more kilograms of marijuana	15
333.7401(2)(d)(ii)	CS	D	Delivery or manufacture of 5 or more but less than 45 kilograms of marijuana	7
333.7401(2)(d)(iii)	CS	F	Delivery or manufacture of less than 5 kilograms or 20 plants of marijuana	4
333.7401(2)(e)	CS	G	Delivery or manufacture of schedule 5 controlled substance	2
333.7401(2)(f)	CS	D	Delivery or manufacture of an official or counterfeit prescription form	20
333.7401(2)(g)	CS	D	Delivery or manufacture of prescription or counterfeit form (other than official)	7
333.7401a	Person	B	Delivering a controlled substance or GBL with intent to commit criminal sexual conduct	20
333.7401b(3)(a)	CS	E	Delivery or manufacture of GBL	7
333.7401b(3)(b)	CS	G	Possession of GBL	2
333.7401c(2)(a)	CS	D	Operating or maintaining controlled substance laboratory	10
333.7401c(2)(b)	CS	B	Operating or maintaining controlled substance laboratory in presence of minor	20
333.7401c(2)(c)	CS	B	Operating or maintaining controlled substance laboratory involving hazardous waste	20
333.7401c(2)(d)	CS	B	Operating or maintaining controlled substance laboratory near certain places	20
333.7401c(2)(e)	CS	A	Operating or maintaining controlled substance laboratory involving firearm or other harmful device	25
333.7401c(2)(f)	CS	B	Operating or maintaining controlled substance laboratory involving methamphetamine	20
333.7402(2)(a)	CS	D	Delivery or manufacture of certain imitation controlled substances	10
333.7402(2)(b)	CS	E	Delivery or manufacture of schedule 1, 2, or 3 imitation controlled substance	5

333.7402(2)(c)	CS	F	Delivery or manufacture of imitation schedule 4 controlled substance	4
333.7402(2)(d)	CS	G	Delivery or manufacture of imitation schedule 5 controlled substance	2
333.7402(2)(e)	CS	C	Delivery or manufacture of controlled substance analogue	15
333.7403(2)(a)(i)	CS	A	Possession of 1,000 or more grams of certain schedule 1 or 2 controlled substances	Life
333.7403(2)(a)(ii)	CS	A	Possession of 450 or more but less than 1,000 grams of certain schedule 1 or 2 controlled substances	30
333.7403(2)(a)(iii)	CS	B	Possession of 50 or more but less than 450 grams of certain schedule 1 or 2 controlled substances	20
333.7403(2)(a)(iv)	CS	G	Possession of 25 or more but less than 50 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(a)(v)	CS	G	Possession of less than 25 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(b)(i)	CS	D	Possession of methamphetamine or 3, 4-methylenedioxymethamphetamine	10
333.7403(2)(b)(ii)	CS	G	Possession of certain schedule 1, 2, 3, or 4 controlled substances or controlled substances analogue	2
333.7405(a)	CS	G	Controlled substance violations by licensee	2
333.7405(b)	CS	G	Manufacturing or distribution violations by licensee	2
333.7405(c)	CS	G	Refusing lawful inspection	2
333.7405(d)	CS	G	Maintaining drug house	2
333.7407(1)(a)	CS	G	Controlled substance violations by licensee	4
333.7407(1)(b)	CS	G	Use of fictitious, revoked, or suspended license number	4
333.7407(1)(c)	CS	G	Obtaining controlled substance by fraud	4
333.7407(1)(d)	CS	G	False reports under controlled substance article	4

333.7407(1)(e)	CS	G	Possession of counterfeiting implements	4
333.7407(1)(f)	CS	F	Disclosing or obtaining prescription information	4
333.7407(1)(g)	CS	F	Possession of counterfeit prescription form	4
333.7407(2)	CS	G	Refusing to furnish records under controlled substance article	4
333.7410a	CS	G	Controlled substance offense or offense involving GBL in or near a park	2

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2004.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 649 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 9, 2004.

Compiler's note: Senate Bill No. 649, referred to in enacting section 2, was filed with the Secretary of State January 9, 2004, and became P.A. 2003, No. 310, Eff. Apr. 1, 2004.

[No. 312]**(SB 652)**

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 502d.

The People of the State of Michigan enact:

750.502d Transporting or possessing anhydrous ammonia; "container approved by law" defined.

Sec. 502d. (1) A person who transports or possesses anhydrous ammonia in a container other than a container approved by law, or who unlawfully tampers with a container approved by law, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

(2) As used in this section, “container approved by law” means a container that was manufactured to satisfy the requirements for the storage and handling of anhydrous ammonia pursuant to R 408.17801 of the Michigan administrative code or its successor rule.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2004.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 9, 2004.

[No. 313]

(SB 777)

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 16x of chapter XVII (MCL 777.16x), as amended by 2002 PA 320.

The People of the State of Michigan enact:

CHAPTER XVII

777.16x MCL 750.478a(2) to 750.512; felonies to which chapter applicable.

Sec. 16x. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.478a(2)	Pub ord	H	Unauthorized process to obstruct a public officer or employee	2

750.478a(3)	Pub ord	G	Unauthorized process to obstruct a public officer or employee — subsequent offense	4
750.479(2)	Person	G	Assaulting or obstructing certain officials	2
750.479(3)	Person	G	Assaulting or obstructing certain officials causing injury	4
750.479(4)	Person	D	Assaulting or obstructing certain officials causing serious impairment	10
750.479(5)	Person	B	Assaulting or obstructing certain officials causing death	20
750.479a(2)	Pub saf	G	Fleeing and eluding — fourth degree	2
750.479a(3)	Pub saf	E	Fleeing and eluding — third degree	5
750.479a(4)	Person	D	Fleeing and eluding — second degree	10
750.479a(5)	Person	C	Fleeing and eluding — first degree	15
750.479b(1)	Person	F	Disarming peace officer — nonfirearm	4
750.479b(2)	Person	D	Disarming peace officer — firearm	10
750.480	Pub trst	F	Public officers — refusing to turn over books/money to successor	4
750.483a(2)(b)	Person	D	Retaliating for reporting crime punishable by more than 10 years	10
750.483a(4)(b)	Person	D	Interfering with police investigation by committing crime or threatening to kill or injure	10
750.483a(6)(a)	Pub ord	F	Tampering with evidence	4
750.483a(6)(b)	Pub ord	D	Tampering with evidence in case punishable by more than 10 years	10
750.488	Pub trst	H	Public officers — state official — retaining fees	2
750.490	Pub trst	H	Public money — safekeeping	2
750.491	Pub trst	H	Public records — removal/mutilation/destruction	2
750.492a(1)(a)	Pub trst	G	Medical record — intentional place false information — health care provider	4
750.492a(2)	Pub trst	G	Medical record — health care provider alter conceal injury/death	4
750.495a(2)	Person	F	Concealing objects in trees or wood products — causing injury	4
750.495a(3)	Person	C	Concealing objects in trees or wood products — causing death	15

750.502d	Pub saf	F	Unlawfully possessing or transporting anhydrous ammonia or tampering with containers	4
750.505	Pub ord	E	Common law offenses	5
750.511	Person	A	Blocking or wrecking railroad track	Life
750.512	Property	E	Uncoupling railroad cars	10

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2004.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 652 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 9, 2004.

Compiler's note: Senate Bill No. 652, referred to in enacting section 2, was filed with the Secretary of State January 9, 2004, and became P.A. 2003, No. 312, Eff. Apr. 1, 2004.

[No. 314]**(HB 5173)**

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 601b (MCL 257.601b), as amended by 2001 PA 103.

The People of the State of Michigan enact:

257.601b Moving violation in construction zone, emergency scene, or school zone; penalties; placement of signs; exceptions; definitions.

Sec. 601b. (1) Notwithstanding any other provision of this act, a person responsible for a moving violation in a work zone, at an emergency scene, or in a school zone during the

period beginning 30 minutes before school in the morning and through 30 minutes after school in the afternoon is subject to a fine that is double the fine otherwise prescribed for that moving violation.

(2) A person who commits a moving violation for which not fewer than 3 points are assigned under section 320a and as a result causes injury to a person working in the work zone is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both.

(3) A person who commits a moving violation for which not fewer than 3 points are assigned under section 320a and as a result causes death to a person working in the work zone is guilty of a felony punishable by a fine of not more than \$7,500.00 or by imprisonment for not more than 15 years, or both.

(4) Whenever practical, signs designed in compliance with the uniform manual of traffic control devices shall be appropriately placed at the work zone by the state transportation department or road authority having jurisdiction over the work zone notifying operators of vehicles of the increased fines and penalties provided by this section for the protection and safety of construction workers.

(5) Subsections (2) and (3) do not apply if the injury or death was caused by the negligence of the person working in the work zone.

(6) As used in this section:

(a) “Emergency scene” means a traffic accident, a serious incident caused by weather conditions, or another occurrence along a highway or street for which a police officer, firefighter, or emergency medical personnel are summoned to aid an injured victim.

(b) “Moving violation” means an act or omission prohibited under this act or a local ordinance substantially corresponding to this act that occurs while a person is operating a motor vehicle, and for which the person is subject to a fine.

(c) “School zone” means that term as defined in section 627a.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5089 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 9, 2004.

Compiler's note: House Bill No. 5089, referred to in enacting section 1, was filed with the Secretary of State January 9, 2004, and became P.A. 2003, No. 315, Eff. Apr. 8, 2004.

[No. 315]

(HB 5089)

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to

provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 320a and 627 (MCL 257.320a and 257.627), section 320a as amended by 2003 PA 61 and section 627 as amended by 1990 PA 165, and by adding section 79d.

The People of the State of Michigan enact:

257.79d “Work zone” defined.

Sec. 79d. “Work zone” means a portion of a street or highway that meets any of the following:

(a) Is between a “work zone begins” sign and an “end road work” sign.

(b) For construction, maintenance, or utility work activities conducted by a work crew and more than 1 moving vehicle, is between a “begin work convoy” sign and an “end work convoy” sign.

(c) For construction, maintenance, surveying, or utility work activities conducted by a work crew and 1 moving or stationary vehicle exhibiting a rotating beacon or strobe light, is between the following points:

(i) A point that is 150 feet behind the rear of the vehicle or that is the point from which the beacon or strobe light is first visible on the street or highway behind the vehicle, whichever is closer to the vehicle.

(ii) A point that is 150 feet in front of the front of the vehicle or that is the point from which the beacon or strobe light is first visible on the street or highway in front of the vehicle, whichever is closer to the vehicle.

257.320a Recording date of conviction, civil infraction determination, or probate court disposition and number of points; formula; interview; violation committed in another state.

Sec. 320a. (1) The secretary of state, within 10 days after the receipt of a properly prepared abstract from this or another state, shall record the date of conviction, civil infraction determination, or probate court disposition, and the number of points for each, based on the following formula, except as otherwise provided in this section and section 629c:

(a) Manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle, ORV, or snowmobile 6 points

(b) A violation of section 601b(2) or (3), 601c(1) or (2), or 653a(3) or (4)... 6 points

(c) A violation of section 625(1), (4), (5), (7), or (8), section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127, or a law or ordinance substantially corresponding to section 625(1), (4), (5), (7), or (8), or section 81134 or

82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127	6 points
(d) Failing to stop and disclose identity at the scene of an accident when required by law	6 points
(e) Operating a motor vehicle in violation of section 626.....	6 points
(f) Fleeing or eluding an officer	6 points
(g) Violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by more than 15 miles per hour	5 points
(h) Violation of any law other than the law described in subdivision (g) or ordinance pertaining to speed by exceeding the lawful maximum by more than 15 miles per hour.....	4 points
(i) Violation of section 625(3) or (6), section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127, or a law or ordinance substantially corresponding to section 625(3) or (6) or section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127.....	4 points
(j) Violation of section 626a or a law or ordinance substantially corresponding to section 626a.....	4 points
(k) Violation of section 653a(2).....	4 points
(l) Violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour	4 points
(m) Violation of any law other than the law described in subdivision (l) or ordinance pertaining to speed by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour or careless driving in violation of section 626b or a law or ordinance substantially corresponding to section 626b....	3 points
(n) Violation of section 627(9) pertaining to speed in a work zone described in that section by exceeding the lawful maximum by 10 miles per hour or less	3 points
(o) Violation of any law other than the law described in subdivision (n) or ordinance pertaining to speed by exceeding the lawful maximum by 10 miles per hour or less.....	2 points
(p) Disobeying a traffic signal or stop sign, or improper passing	3 points
(q) Violation of section 624a, 624b, or a law or ordinance substantially corresponding to section 624a or 624b.....	2 points
(r) Violation of section 310e(4) or (6) or a law or ordinance substantially corresponding to section 310e(4) or (6).....	2 points
(s) All other moving violations pertaining to the operation of motor vehicles reported under this section.....	2 points
(t) A refusal by a person less than 21 years of age to submit to a preliminary breath test required by a peace officer under section 625a	2 points

(2) Points shall not be entered for a violation of section 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

(3) Points shall not be entered for bond forfeitures.

(4) Points shall not be entered for overweight loads or for defective equipment.

(5) If more than 1 conviction, civil infraction determination, or probate court disposition results from the same incident, points shall be entered only for the violation that receives the highest number of points under this section.

(6) If a person has accumulated 9 points as provided in this section, the secretary of state may call the person in for an interview as to the person's driving ability and record after due notice as to time and place of the interview. If the person fails to appear as provided in this subsection, the secretary of state shall add 3 points to the person's record.

(7) If a person violates a speed restriction established by an executive order issued during a state of energy emergency as provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of state shall enter points for the violation pursuant to subsection (1).

(8) The secretary of state shall enter 6 points upon the record of a person whose license is suspended or denied pursuant to section 625f. However, if a conviction, civil infraction determination, or probate court disposition results from the same incident, additional points for that offense shall not be entered.

(9) If a Michigan driver commits a violation in another state that would be a civil infraction if committed in Michigan, and a conviction results solely because of the failure of the Michigan driver to appear in that state to contest the violation, upon receipt of the abstract of conviction by the secretary of state, the violation shall be noted on the driver's record, but no points shall be assessed against his or her driver's license.

257.627 Speed limitations.

Sec. 627. (1) A person driving a vehicle on a highway shall drive at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the highway and of any other condition then existing. A person shall not drive a vehicle upon a highway at a speed greater than that which will permit a stop within the assured, clear distance ahead.

(2) Subject to subsection (1) and except in those instances where a lower speed is specified in this chapter, it is prima facie lawful for the driver of a vehicle to drive at a speed not exceeding the following, except when this speed would be unsafe:

(a) 25 miles an hour on all highways in a business or residence district as defined in this act.

(b) 25 miles an hour in public parks unless a different speed is fixed and duly posted.

(3) It is prima facie unlawful for a person to exceed the speed limits prescribed in subsection (2), except as provided in section 629.

(4) The driver of a vehicle in a mobile home park as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302, shall drive at a careful and prudent speed, not greater than a speed which is reasonable and proper, having due regard for the traffic, surface, width of the roadway, and all other conditions existing, and not greater than a speed which will permit a stop within the assured clear distance ahead. It is prima facie unlawful for the driver of a vehicle to drive at a speed exceeding 15 miles an hour in a mobile home park as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302.

(5) A person driving a passenger vehicle drawing another vehicle or trailer shall not exceed a speed of 55 miles per hour, unless the vehicle or trailer has 2 wheels or less and does not exceed the combined weight of 750 pounds for the vehicle or trailer and load, or

a trailer coach of not more than 26 feet in length with brakes on each wheel and attached to the passenger vehicle with an equalizing or stabilizing coupling unit.

(6) A truck with a gross weight of 10,000 pounds or more, a truck-tractor with a trailer, or a combination of these vehicles shall not exceed a speed of 55 miles per hour on highways, streets, or freeways and shall not exceed a speed of 35 miles per hour during the period when reduced loadings are being enforced in accordance with this chapter.

(7) A person driving a school bus shall not exceed the speed of 50 miles per hour.

(8) The maximum rates of speeds allowed pursuant to this section are subject to the maximum rate established pursuant to section 629b.

(9) A person operating a vehicle on a highway, when entering and passing through a work zone described in section 79d(a) where a normal lane or part of the lane of traffic has been closed due to highway construction, maintenance, or surveying activities, shall not exceed a speed of 45 miles per hour unless a different speed limit is determined for that work zone by the state transportation department, a county road commission, or a local authority. The state transportation department, a county road commission, or a local authority shall post speed limit signs in each work zone described in section 79d(a) that indicate the speed limit in that work zone and shall identify that work zone with any other traffic control devices necessary to conform to the Michigan manual of uniform traffic control devices. A person shall not exceed a speed limit established under this section or a speed limit established under section 628 or 629.

(10) A person who violates this section is responsible for a civil infraction.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after the date this amendatory act is enacted.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 9, 2004.

[No. 316]

(HB 5216)

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,” by amending section 4l (MCL 117.4l), as amended by 1996 PA 44, and by adding section 4q.

The People of the State of Michigan enact:

117.4l Ordinance; designation as civil infraction or blight violation; civil fine; act or omission constituting crime.

Sec. 4l. (1) Consistent with any of the following statutes and whether or not authorized by the city charter, the legislative body of a city may adopt an ordinance that designates a violation of the ordinance as a civil infraction and provides a civil fine for that violation:

(a) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(b) 1969 PA 235, MCL 257.941 to 257.943.

(c) 1956 PA 62, MCL 257.951 to 257.955.

(2) Whether or not authorized by the city charter, the legislative body of a city may adopt an ordinance that designates a violation of the ordinance as a municipal civil infraction and provides a civil fine for that violation. An ordinance shall not designate a violation as a municipal civil infraction if that violation may be designated as a civil infraction under subsection (1). A statute may provide that a violation of a specific type of ordinance is a municipal civil infraction whether or not the ordinance designates the violation as a municipal civil infraction.

(3) An ordinance shall not make an act or omission a municipal civil infraction or a blight violation if that act or omission constitutes a crime under any of the following:

(a) Article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545.

(b) The Michigan penal code, 1931 PA 328, MCL 750.1 to 750.568.

(c) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(d) The Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303.

(e) Part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199.

(f) The aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208.

(g) Part 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101 to 324.82160.

(h) Part 811 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150.

(i) Sections 351 to 365 of the railroad code of 1993, 1993 PA 354, MCL 462.351 to 462.365.

(j) Any law of this state under which the act or omission is punishable by imprisonment for more than 90 days.

(4) Whether or not authorized by the city charter, the legislative body of a city may adopt an ordinance that designates a violation of the ordinance as a blight violation and provides a civil fine and other sanctions for that violation consistent with section 4q. An ordinance shall not designate a violation as a blight violation if that violation may be designated a civil infraction under subsection (1). An ordinance shall not designate a violation as both a municipal civil infraction and a blight violation.

117.4q Administrative hearings.

Sec. 4q. (1) A city that has a population of 7,500 or more and is located in any county, or a city that has a population of 3,300 or more and is located in a county that has a population of 2,000,000 or more, may establish an administrative hearings bureau to adjudicate and impose sanctions for violations of the charter or ordinances designated in the charter or ordinance as a blight violation. The bureau may accept admissions of responsibility for blight violations. Pursuant to a schedule of civil fines and costs, the bureau may collect civil fines and costs for blight violations.

(2) The expense of the operation of an administrative hearings bureau shall be borne by the city establishing the bureau.

(3) An administrative hearings bureau shall not have jurisdiction over criminal offenses, traffic civil infractions, municipal civil infractions, or state civil infractions. The

bureau and its hearing officers shall not have the authority to impose a penalty of incarceration and may not impose a civil fine in excess of \$10,000.00.

(4) A city that establishes an administrative hearings bureau under this section shall establish by ordinance the jurisdiction of the bureau for adjudicating alleged blight violations, making determinations of responsibility, and imposing sanctions upon those found responsible for a violation. The city may designate only a violation of any of the following types of ordinances as a blight violation:

- (a) Zoning.
- (b) Building or property maintenance.
- (c) Solid waste and illegal dumping.
- (d) Disease and sanitation.
- (e) Noxious weeds.

(f) Vehicle abandonment, inoperative vehicles, vehicle impoundment, and municipal vehicle licensing.

(5) To initiate a proceeding for a blight violation, the city shall issue and serve upon an alleged violator a written violation notice on which an authorized local official records the occurrence or existence of 1 or more blight violations by the person cited and which directs the named person to pay a civil fine for the violation or appear at the administrative hearings bureau as provided in this section. A violation notice to appear at an administrative hearings bureau shall be treated as made under oath if the violation alleged in the notice occurred in the presence of the authorized local official signing the violation notice and if the notice contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief.". An authorized local official may issue a violation notice to appear if, based upon investigation, the official has reasonable cause to believe that the person is responsible for a blight violation and if the city attorney or an assistant city attorney approves in writing the issuance of the violation notice.

(6) If a city has a rental inspection program with which a landlord must register in order to rent premises for residential purposes and if a landlord of premises rented in the city for residential purposes is registered with the city's rental inspection program, the city shall not issue a blight violation notice during an inspection of the premises unless either of the following occurs:

(a) The landlord is given a written correction notice of the violation and a reasonable opportunity to correct the circumstances before a reinspection of the premises or a date specified in the notice.

(b) The violation is a direct result of the landlord's action or inaction and creates an emergency that presents an immediate risk of harm to people or damage to property including, but not limited to, a flooded basement or premises without heat.

(7) A city that does not have a rental inspection program, or does not require a landlord to register as part of a rental inspection program, shall not issue a blight violation notice to a landlord of premises rented in the city for residential purposes during an inspection of the premises unless either of the following occurs:

(a) The landlord is given a written correction notice of the violation and a reasonable opportunity to correct the circumstances before a reinspection of the premises or a date specified in the notice.

(b) The violation is a direct result of the landlord's action or inaction and creates an emergency that presents an immediate risk of harm to people or damage to property, including, but not limited to, a flooded basement or premises without heat.

(8) The person named in the violation notice shall appear on or before the time specified in the violation notice and may respond to the allegations in the notice, as follows:

(a) If the alleged violator wishes to admit responsibility for the blight violation, the person may do so by appearing in person, by representation, or by mail. If appearance is made by representation or mail, the administrative hearings bureau may accept the admission as though the person personally appeared. Upon acceptance of the admission, a hearing officer may order any of the sanctions permitted under this section.

(b) If the alleged violator wishes to deny responsibility for the blight violation, or admit responsibility with an explanation, the person may do so by appearing in person on the date scheduled for the administrative hearing for the purpose of adjudicating the alleged violation.

(c) If the alleged violator fails to appear, a decision and order of default may be entered.

(9) If an admission of responsibility is not made and the civil fine and costs, if any, prescribed by charter or ordinance for the violation are not paid at the administrative hearings bureau, and the alleged violator fails to appear at a hearing scheduled in accordance with this section, a final decision and order of responsibility in the amount of the prescribed civil fine and costs may be issued by the administrative hearings bureau.

(10) The city establishing an administrative hearings bureau shall establish rules and procedures for an alleged violator to set aside the entry of a decision and order of default.

(11) The ordinance establishing the bureau shall provide for adjudicatory hearings by hearing officers. Each hearing officer shall be an attorney licensed to practice law in this state for at least 5 years. Hearing officers shall be appointed in a manner consistent with the charter of the city for the appointment of other municipal officers or employees and shall only be removed for reasonable cause. Before conducting administrative adjudication proceedings, administrative hearing officers shall successfully complete a formal training program which includes all of the following:

(a) Instruction on the rules of procedure of the administrative hearings that they will conduct.

(b) Orientation to each subject area of the ordinance violations that they will adjudicate.

(c) Observation of administrative hearings.

(d) Participation in hypothetical cases, including ruling on evidence and issuing final orders.

(e) The importance of impartiality in the conduct of the administrative hearing and adjudication of the violation.

(f) Instructions on the preparation of a record that is adequate for judicial review.

(12) The authority and duties of a hearing officer shall include all of the following:

(a) Hearing testimony and accepting evidence that is relevant to the existence of the blight violation.

(b) Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon request of a party or a party's attorney.

(c) Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing.

(d) Issuing a determination, based upon the evidence presented at the hearing, whether a blight violation exists. The determination shall be in writing and shall include written findings of fact, a decision, and an order. The city shall have the burden of establishing the responsibility of the alleged violator by a preponderance of the evidence. Unless the burden is met, the matter shall be dismissed. A decision and an order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence. A decision and order finding the alleged violator responsible for the violation shall include the civil fine, if any, or any action with which the violator must comply, or both.

(e) Imposing reasonable and proportionate sanctions consistent with applicable ordinance provisions and assessing costs upon a finding that the alleged violator is responsible for the alleged violation. The maximum monetary civil fine allowed under this section excludes costs of enforcement or costs imposed to secure compliance with the city's ordinances and is not applicable to enforce the collection of any tax imposed and collected by the city.

(13) In addition to fines and costs imposed under subsection (12), the hearing officer shall impose a justice system assessment of \$10.00 for each blight violation determination. Upon payment of the assessment, the city shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(14) A party shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. A party may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. Hearings shall be scheduled with reasonable promptness, except that for hearings scheduled in all nonemergency situations the alleged violator if he or she requests shall have at least 14 days after service of process to prepare for the hearing. For purposes of this subsection, "nonemergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by first-class mail, the 14-day period begins to run on the day that the notice is deposited in the mail.

(15) In an administrative hearing under this section, the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.

(16) Any final decision by a hearing officer that a blight violation does or does not exist constitutes a final decision and order for purposes of judicial review and may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(17) A party may file an appeal within 28 days after entry of the decision and order by the hearing officer. An appeal of a final decision and order of an administrative hearing officer is to the circuit court.

(18) An alleged violator who appeals a final decision and order to circuit court shall post with the administrative hearings bureau, at the time the appeal is taken, a bond equal to the fine and costs imposed. A party who has paid the fine and costs is not required to post a bond. If a party who has posted a bond fails to comply with the requirements of

supreme court rules for an appeal to the circuit court, the appeal may be considered abandoned, and the bureau may dismiss the appeal on 7 days' notice to the parties. The administrative hearings bureau must promptly notify the circuit court of a dismissal, and the circuit court shall dismiss the claim of appeal. If the appeal is dismissed or the decision and order are affirmed, the administrative hearings bureau may apply the bond to the fine and costs. An appeal by the city must be asserted by the city's attorney and a bond is not required.

(19) An appeal to circuit court shall be a review by the court of the certified record provided by the administrative hearings bureau. Pending appeal, and subject to the bond requirement under subsection (18), the hearing officer may stay the order and any sanctions or costs imposed. Once an appeal is filed, and subject to the bond requirement under subsection (18), the court may stay the order and any sanctions or costs imposed. The court, as appropriate, may affirm, reverse, or modify the decision or order, or remand the matter for further proceedings. The court shall hold unlawful and set aside a decision or order of the hearing officer if substantial rights of an alleged violator have been prejudiced because the decision or order is any of the following:

- (a) In violation of the constitution or a statute, charter, or ordinance.
- (b) In excess of the authority or jurisdiction of the agency as conferred by statute, charter, or ordinance.
- (c) Made upon unlawful procedure resulting in material prejudice to a party.
- (d) Not supported by competent, material, and substantial evidence on the whole record.
- (e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.
- (f) Affected by other substantial and material error of law.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 12, 2004.

[No. 317]

(HB 5217)

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 4r.

The People of the State of Michigan enact:

117.4r Nonpayment of civil fine or costs by defendant; lien; recording; enforcement; priority; collection of judgment; duration of lien; default.

Sec. 4r. (1) If a defendant does not pay a civil fine or costs or an installment payment ordered by a hearing officer under section 4q within 30 days after the date on which

payment is due for a blight violation involving the use or occupation of land or a building or other structure, the city may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the final decision and order requiring payment of the fines and costs with the register of deeds for the county in which the land, building, or structure is located. The order shall not be recorded unless a legal description of the property is incorporated in or attached to the order. The lien is effective immediately upon recording of the order with the register of deeds.

(2) The order recorded under subsection (1) with the register of deeds shall constitute notice of the pendency of the lien. In addition, a written notice of the lien shall be sent by the city by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.

(3) The lien may be enforced and discharged by the city in the manner prescribed by its charter, by the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, or by an ordinance duly passed by the governing body of the city. However, property is not subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for nonpayment of a civil fine or costs or an installment ordered under section 4q unless the property is also subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for delinquent property taxes.

(4) A lien created under this section has priority over any other lien unless 1 or more of the following apply:

- (a) The other lien is a lien for taxes or special assessments.
- (b) The other lien is created before May 1, 1994.
- (c) Federal law provides that the other lien has priority.
- (d) The other lien is recorded before the lien under this section is recorded.

(5) The city may institute an action in a court of competent jurisdiction for the collection of the judgment imposed by an order under section 4r for a blight violation. However, an attempt by the city to collect the judgment by any process does not invalidate or waive the lien upon the land, building, or structure.

(6) A lien provided for by this section shall not continue for a period longer than 10 years after a copy of the order imposing a fine or costs, or both, is recorded, unless within that time an action to enforce the lien is commenced.

(7) A default in the payment of a civil fine or costs under section 4q or an installment of the fine or costs may be collected by a means authorized for the enforcement of a court judgment under chapter 40 or 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, and MCL 600.6001 to 600.6098.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 12, 2004

[No. 318]

(HB 5218)

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,” by amending section 29 (MCL 117.29), as amended by 1994 PA 17.

The People of the State of Michigan enact:

117.29 Recovery and enforcement of fines, penalties, and forfeitures; violations; administrative hearings.

Sec. 29. (1) Except as provided in subsection (2), the district court, a municipal court, or the circuit court, as provided by law, may hear, try, and determine actions and prosecutions for the recovery and enforcing of fines, penalties, and forfeitures imposed by the charter and ordinances of the city, and sanction offenders for the violation of the charter and ordinances, as is prescribed and directed in the charter or ordinances.

(2) Pursuant to section 4q, a city may provide for an administrative hearings bureau to adjudicate alleged violations of ordinances and impose sanctions consistent with this act.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 12, 2004.

[No. 319]

(HB 5219)

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 8313 (MCL 600.8313), as amended by 1995 PA 54.

The People of the State of Michigan enact:

600.8313 Prosecution of violations; exception.

Sec. 8313. (1) A violation of state criminal law shall be prosecuted in the district court by the prosecuting attorney. A violation of an ordinance of a political subdivision that is a misdemeanor or that is not designated as a civil infraction shall be prosecuted in the district court by the attorney for the political subdivision whose ordinance was violated. If the violation is a civil infraction, the prosecuting attorney or attorney for the political subdivision shall appear in court only in those civil infraction actions that are contested before a judge of the district court in a formal hearing as provided in any of the following, as applicable:

(a) Section 8721.

(b) Section 8821.

(c) Section 747 of the Michigan vehicle code, 1949 PA 300, MCL 257.747.

(2) This section does not apply to an ordinance violation designated a blight violation by a political subdivision that establishes an administrative hearings bureau pursuant to statute to adjudicate and impose sanctions for blight violations.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 12, 2004.

[No. 320]

(HB 5220)

AN ACT to amend 1921 PA 207, entitled “An act to provide for the establishment in cities and villages of districts or zones within which the use of land and structures and the height, area, size, and location of buildings may be regulated by ordinance, and for which districts regulations shall be established for the light and ventilation of those buildings, and for which districts or zones the density of population may be regulated by ordinance; to designate the use of certain state licensed residential facilities; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise of private property that does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this act; to provide for amendments, supplements, or changes in zoning ordinances, zones, or districts; to provide for conflict with the state housing code or other acts, ordinances, or regulations; to provide sanctions for the violation of this act; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; and to provide for special assessments,” by amending section 7 (MCL 125.587), as amended by 1994 PA 25.

The People of the State of Michigan enact:

125.587 Violation as nuisance per se; abatement; liability; administration and enforcement of ordinance; penalties.

Sec. 7. A building erected, altered, razed, or converted, or a use carried on in violation of a local ordinance or regulation adopted pursuant to this act is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the building or land, or both the owner and the agent, are liable for maintaining a nuisance per se. The legislative body in the ordinance adopted pursuant to this act shall designate the proper officials whose duty it is to administer and enforce the ordinance and do 1 of the following for each violation of the ordinance:

(a) Impose a penalty for the violation.

(b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation.

(c) Designate the violation as a blight violation and impose a civil fine or other sanction authorized by law if the city establishes an administrative hearings bureau pursuant to statute to adjudicate and impose sanctions for blight violations.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 12, 2004.

[No. 321]**(HB 5224)**

AN ACT to amend 1941 PA 359, entitled “An act for controlling and eradicating certain noxious weeds within the state; to permit townships, villages, and cities to have a lien for expenses incurred in controlling and eradicating such weeds; to permit officials of counties and municipalities to appoint commissioners of noxious weeds; to define the powers, duties, and compensation of commissioners; to provide for sanctions; and to repeal certain acts and parts of acts,” by amending section 4 (MCL 247.64), as amended by 1994 PA 26.

The People of the State of Michigan enact:

247.64 Destruction of noxious weeds; duty of owner, commissioner, agent, and department of natural resources; notice; ordinance; resolution; expenses; lien; penalty; exceptions; action in court of claims.

Sec. 4. (1) The owner of land on which noxious weeds are found growing shall destroy the weeds before they reach a seed bearing stage and prevent their regrowth, or shall prevent them from becoming a detriment to public health. The commissioner shall notify by certified mail with return receipt requested the owner, agent, or occupant of land on which noxious weeds are found growing. The notice shall describe methods of treating and eradicating the noxious weeds and a summary of the provisions of this section. Failure of the commissioner to give the notice does not, however, constitute a defense to an action to enforce the payment of a fine provided for or debt created under this act. If the owner, agent, or occupant refuses to destroy the noxious weeds, the commissioner shall enter upon the land and destroy the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the land, and the township, city, or village of which the commissioner is an officer shall have a lien against the land for the amount of the expense. The lien shall be enforced in the manner provided by law for the enforcement of construction liens.

(2) A village or city, or a township having a population of more than 5,000, may, whether or not provided in its charter, provide by ordinance enacted for the purpose of controlling and eradicating noxious weeds in subdivided land that if the owner, agent, or occupant of subdivided land in a subdivision in which buildings have been erected on 60% of the lots, or the owner, agent, or occupant of a lot along an improved street in common usage, has failed, after 10 days' notice as provided in this section, to destroy the weeds, for a depth of 10 rods or the depth of the lot, whichever is less, then an agent authorized by the governing body of the township, village, or city may enter upon the lot and destroy noxious weeds by cutting. Mechanical equipment that will not damage the property or the adjacent sidewalk, may be used to cut the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the lot. The township, village, or city shall have a lien upon the lot for the amount of the expense. The lien shall be enforced in the manner prescribed by charter, by the laws of the state providing for the enforcement of tax liens, or by ordinance passed by the governing body of the township, village, or city.

(3) An owner who refuses to destroy noxious weeds as provided in this section is subject to a fine of not more than \$100.00. When collected, the fine shall become a part of the “noxious weed control fund” of the township, village, or city. By ordinance, the township, city, or village may designate the refusal to destroy noxious weeds as provided in this section as a municipal civil infraction, in which case the fine shall be a civil fine. If

the city establishes an administrative hearings bureau pursuant to statute to adjudicate and impose sanctions for blight violations, the city by ordinance may designate the refusal to destroy noxious weeds as provided in this section as a blight violation and any fine imposed shall be a civil fine.

(4) This act does not apply to weeds in fields devoted to growing any small grain crop such as wheat, oats, barley, or rye. In the case of an easement, property such as an abandoned subdivision, strip mine, or gravel pit, public property such as a forest preserve, and all other land as to which definite ownership is not known to the commissioner and cannot be established, the county board of commissioners shall cause the destruction of noxious weeds in accordance with this act.

(5) If the county board of commissioners of a county passes a resolution to participate under this act, the commissioner of noxious weeds shall notify the department of natural resources, which shall determine whether there is land in the county belonging to this state under the jurisdiction of the department. The department of natural resources shall cut noxious weeds growing on that land within 10 rods of any privately owned improved property, upon receipt of the notification. If the department of natural resources fails to cut the weeds, the commissioner of noxious weeds shall enter upon the land and destroy the weeds. The expense shall be a charge against the department of natural resources and may be recovered in an action in the court of claims.

This act is ordered to take immediate effect.

Approved January 8, 2004.

Filed with Secretary of State January 12, 2004.

[No. 322]

(HB 4249)

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” (MCL 333.1101 to 333.25211) by adding section 2855a.

The People of the State of Michigan enact:

333.2855a Public display of autopsy photograph; court action; applicability of section to internet service provider; constitutionally protected speech or activity not prohibited; definitions.

Sec. 2855a. (1) A person shall not publicly display an autopsy photograph of a decedent that identifies the decedent by name, face, or other identifying physical feature unless 1 of the following conditions is met:

(a) One of the following individuals specifically provides written authorization for the public display of the autopsy photograph:

(i) A person nominated by will or other writing signed by the decedent.

(ii) If an individual described in subparagraph (i) cannot be identified or located following a diligent and good faith effort, the decedent's spouse.

(iii) If an individual described in subparagraph (i) or (ii) cannot be identified or located following a diligent and good faith effort, an adult child of the decedent.

(iv) If an individual described in subparagraph (i), (ii), or (iii) cannot be identified or located following a diligent and good faith effort, a parent of the decedent.

(v) If an individual described in subparagraph (i), (ii), (iii), or (iv) cannot be identified or located following a diligent and good faith effort, the next of kin of the decedent.

(vi) If an individual described in subparagraph (i), (ii), (iii), (iv), or (v) cannot be identified or located following a diligent and good faith effort, an individual charged by law with the responsibility for burial or cremation of the decedent's body.

(b) The public display of the autopsy photograph is 1 of the following:

(i) Upon written authorization by the prosecuting attorney having jurisdiction for a purpose directly related to the investigation or prosecution of a criminal case.

(ii) Authorized by a court of competent jurisdiction for a purpose directly related to the proceedings in a civil case.

(iii) Required for a health department to carry out its lawful duties.

(iv) Necessary for legitimate research or teaching of only medical, public health, or public safety personnel or students enrolled at a postsecondary educational institution.

(2) A decedent's parent, surviving spouse, and children who are injured as a result of a violation of this section may bring an action in a court of competent jurisdiction to recover \$1,000.00 or actual damages, whichever is greater, plus costs and reasonable attorney fees.

(3) This section does not apply to an internet service provider or computer network service provider who in good faith, and without knowledge of the content of the photograph, provides the medium for public display of the photograph. As used in this subsection, "internet service provider" means a person who provides a service that enables users to access content, information, electronic mail, or other services offered over the internet.

(4) This section does not prohibit constitutionally protected speech or activity.

(5) As used in this section:

(a) "Autopsy photograph" means an image of a decedent obtained during an autopsy of that decedent in this state, and includes an image on videotape, motion picture or other film, or an image captured by digital means.

(b) "Decedent" means a deceased human being.

(c) “Public display” means to knowingly communicate, exhibit, or display in open view or to distribute to members of the public or in a public manner, whether or not for commercial purposes, through any medium of communication including, but not limited to, the internet or a computer, computer network, computer program, or computer system, as those terms are defined in section 2 of 1979 PA 53, MCL 752.792.

Effective date.

Enacting section 1. This amendatory act takes effect March 31, 2004.

This act is ordered to take immediate effect.

Approved January 9, 2004.

Filed with Secretary of State January 12, 2004.

