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Senate Bill 712 (Substitute S-1)
Senate Bill 713 (as introduced 1-9-20)
Sponsor: Senator Jon Bumstead
Committee: Local Government

Date Completed: 2-13-20

CONTENT

Senate Bill 712 (S-1) would amend the General Law Village Act to do the following:

- Prescribe procedures for the resignation of village council officers and president.
- Remove a petition requirement for calling a special election when filling vacancies.
- Require a special election and a temporary appointment of a trustee if there were not enough trustees to constitute a quorum.
- Allow the presiding officer of a village council to compel the attendance of board members in the absence of an ordinance, if the village council lacked a quorum for more than 60 days.

Senate Bill 713 would amend the Michigan Election Law to allow remaining village council members to make temporary appointments to constitute a quorum.

Senate Bills 712 (S-1) and 713 are tie-barred.

Senate Bill 712 (S-1)

Filling Village Council Vacancies

Under the General Law Village Act, resignation of officers must be made to the village council. Under the bill, the resignation of a village officer would have to be made to the village president, and the resignation of a village president would have to be made to the village clerk. A resignation would be effective upon receipt by the village president or village clerk, as applicable.

Generally, a vacancy occurring in the office of president, trustee, or any other elective office must be filled by appointment by the council, and the appointee must hold the office until the next regular village election. If the council is reduced to less than a quorum, then the remaining members must call for a special election to fill all vacancies in the office of trustee. This requires a petition to be signed by at least 10% of the qualified voters of the village is filed with the clerk within ten days after the vacancy occurs. If a petition is not filed within the 10-day period, then the remaining council members may either call a special election or appoint a sufficient number of trustees to constitute with members in office a quorum of the council.

Under the bill, if a council were reduced to less than a quorum, the remaining members would have to do both of the following:

- Call a special election on the next regular election date to fill the vacancies as provided in the Michigan Election Law; however, if the vacancy of a trustee occurred during the last year of his or her term, a special election to fill that vacancy could be held only on or before the May regular election date in that year.
- Make temporary appointment of the number of trustees required to constitute a quorum for the transaction of business by the village council.

A trustee who was temporarily appointed under the bill would hold office only until the trustee's successor was elected and qualified and could not vote on the appointment of himself or herself to an elective or appointive village office.

Under the Law, if all the officers and trustees of a village have died or moved from the village, with no elected or appointed successors to fill the vacancies, the township clerk of the township in which the village resides, upon petition of 10% of the qualified voters residing in the village, must call a special election to be held on a regular election date to fill the vacancies. The bill would remove the petition requirement for calling a special election in this case.

Village Council Procedures & Compelling Attendance

Currently, a village council must prescribe the rules of its own proceedings. A majority of the members are a quorum for the transaction of business. A lesser number may adjourn and compel the attendance of absent members in a manner as prescribed by ordinance.

Under the bill, instead, a majority of the members of a council serving, if they met to fill a vacancy in the office of village president or village trustee, would be a quorum for the transaction of business. A lesser number could adjourn and compel the attendance of absent members in a manner that was prescribed by ordinance (as is currently the case). In the absence of an ordinance, if the council lacked a quorum for more than 60 consecutive calendar days, then the presiding officer of the council could compel the attendance of board members and other officers of the village at a regular or special meeting and could enforce the orderly conduct in the meeting.

A member of the council or any other officer of the village who refused to attend a meeting for a reason other than a confining illness or extenuating circumstances, or who refused to conduct himself or herself in an orderly manner, would be guilty of gross neglect of duty. A police officer designated by the presiding officer of the meeting would have to serve as the sergeant-at-arms of the village council in the enforcement of these provisions.

Senate Bill 713

Under the Michigan Election Law, if the membership of a village council is reduced to a quorum of four and a special election has been called to fill all vacancies in the office of trustee, as prescribed by the General Law Village Act, then the board of county election commissioners of the county in which the largest portion of population of the village is situated must make temporary appointments of the number of trustees required to constitute a quorum for the transaction of business by a village council.

Instead, the bill would allow the remaining village council members to make the temporary appointments.

FISCAL IMPACT

Senate Bill 712 (S-1)

The bill would have no fiscal impact on the State and could have a negative fiscal impact on local units of government. The bill's provisions would require special elections for village officers in cases in which they may not be required under current law. The special elections would have to be held on the next regular election date, and the village would have to pay expenses of the election. Whether there would be a fiscal impact in any given situation would depend on if the special election would have been held under current rules as well, and whether the village otherwise had an election on the next election date. In any scenario in which the village would have had the special election under current law, the bill would have no fiscal impact. Likewise, in any scenario in which the village already would be conducting an election on the next regular election date, the additional administrative cost would be minimal.

Senate Bill 713

The bill would have no fiscal impact on State or local government.

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