

SENATE BILL No. 976

December 13, 2001, Introduced by Senator JOHNSON and referred to the Committee on Finance.

A bill to amend 1909 PA 279, entitled "The home rule city act," by amending sections 3, 4a, 5, and 5f (MCL 117.3, 117.4a, 117.5, and 117.5f), section 3 as amended by 1999 PA 260, section 4a as amended by 1994 PA 324, section 5 as amended by 1988 PA 268, and section 5f as amended by 1990 PA 231.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. Each city charter shall provide for all of the
2 following:

3 (a) The election of a mayor, who shall be the chief execu-
4 tive officer of the city, and of a body vested with legislative
5 power, and for the election or appointment of a clerk, a treasur-
6 er, an assessor or board of assessors, a board of review, and
7 other officers considered necessary. The city charter may
8 provide for the selection of the mayor by the legislative body.

1 Elections may be by a partisan, nonpartisan, or preferential
2 ballot, or by any other legal method of voting. Notwithstanding
3 any other law or charter provision to the contrary, a city having
4 a 1970 official population of more than 150,000, whose charter
5 provides for terms of office of less than 4 years, and in which
6 the term of office for the mayor and the governing body are of
7 the same length, may provide by ordinance for a term of office of
8 up to 4 years for mayor and other elected city officials. The
9 ordinance shall provide that the ordinance shall take effect 60
10 days after it is enacted unless within the 60 days a petition is
11 submitted to the city clerk signed by not less than 10% of the
12 registered electors of the city requesting that the question of
13 approval of the ordinance be submitted to the electors at the
14 next regular election or a special election called for the pur-
15 pose of approving or disapproving the ordinance.

16 (b) The nomination of elective officers by partisan or non-
17 partisan primary, by petition, or by convention.

18 (c) The time, manner, and means of holding elections and the
19 registration of electors.

20 (d) The qualifications, duties, and compensation of the
21 city's officers. If the city has an appointed chief administra-
22 tive officer, the legislative body of the city may enter into an
23 employment contract with the chief administrative officer extend-
24 ing beyond the terms of the members of the legislative body
25 unless ~~such an~~ THE employment contract is prohibited by the
26 city charter. An employment contract with a chief administrative
27 officer shall be in writing and shall specify the compensation to

1 be paid to the chief administrative officer, any procedure for
2 changing the compensation, any fringe benefits, and any other
3 conditions of employment. The contract shall state if the chief
4 administrative officer serves at the pleasure of the legislative
5 body, and the contract may provide for severance pay or other
6 benefits in the event the chief administrative officer's employ-
7 ment is terminated at the pleasure of the legislative body.

8 (e) The establishment of 1 or more wards, and if the members
9 of the city's legislative body are chosen by wards, for equal
10 representation for each ward in the legislative body.

11 (f) That the subjects of taxation for municipal purposes are
12 the same as for state, county, and school purposes under the gen-
13 eral law.

14 (g) The annual laying and collecting taxes in a sum, except
15 as otherwise provided by law, not to exceed 2% of the taxable
16 value of the real and personal property in the city. Unless the
17 charter provides for a different tax rate limitation, the govern-
18 ing body of a city may levy and collect taxes for municipal pur-
19 poses in a sum not to exceed 1% of the taxable value of the real
20 and personal property in the city. ~~, subject to section 1a of~~
21 ~~chapter VII of the municipal finance act, 1943 PA 202,~~
22 ~~MCL 137.1a.~~ As used in this subdivision, "taxable value" is that
23 value determined under section 27a of the general property tax
24 act, 1893 PA 206, MCL 211.27a.

25 (h) An annual appropriation of money for municipal
26 purposes.

1 (i) The levy, collection, and return of state, county, and
2 school taxes in conformance with the general laws of this state,
3 except that the preparation of the assessment roll, the meeting
4 of the board of review, and the confirmation of the assessment
5 roll may be at the times provided in the city charter.

6 (j) The public peace and health and for the safety of per-
7 sons and property. In providing for the public peace, health,
8 and safety, a city may expend funds or enter into contracts with
9 a private organization, the federal or state government, a
10 county, village, or township, or another city for services con-
11 sidered necessary by the legislative body. Public peace, health,
12 and safety services may include the operation of child guidance
13 and community mental health clinics, the prevention, counseling,
14 and treatment of developmental disabilities, the prevention of
15 drug abuse, and the counseling and treatment of drug abusers.

16 (k) Adopting, continuing, amending, and repealing the city
17 ordinances and for the publication of each ordinance before it
18 becomes operative. Whether or not provided in its charter,
19 instead of publishing a true copy of an ordinance before it
20 becomes operative, the city may publish a summary of the
21 ordinance. If the city publishes a summary of the ordinance, the
22 city shall include in the publication the designation of a loca-
23 tion in the city where a true copy of the ordinance can be
24 inspected or obtained. Any charter provision to the contrary
25 notwithstanding, a city may adopt an ordinance punishable by
26 imprisonment for not more than 93 days or a fine of not more than
27 \$500.00, or both, if the violation substantially corresponds to a

1 violation of state law that is a misdemeanor for which the
2 maximum period of imprisonment is 93 days. Whether or not pro-
3 vided in its charter, a city may adopt a provision of any state
4 statute for which the maximum period of imprisonment is 93 days,
5 the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or
6 a law, code, or rule that has been promulgated and adopted by an
7 authorized agency of this state pertaining to fire, fire hazards,
8 fire prevention, or fire waste, and a fire prevention code,
9 plumbing code, heating code, electrical code, building code,
10 refrigeration machinery code, piping code, boiler code, boiler
11 operation code, elevator machinery code, or a code pertaining to
12 flammable liquids and gases or hazardous chemicals, that has been
13 promulgated by this state, by a department, board, or other
14 agency of this state, or by an organization or association that
15 is organized and conducted for the purpose of developing the
16 code, by reference to the law, code, or rule in an adopting ordi-
17 nance and without publishing the law, code, or rule in full. The
18 law, code, or rule shall be clearly identified in the ordinance
19 and its purpose shall be published with the adopting ordinance.
20 Printed copies of the law, code, or rule shall be kept in the
21 office of the city clerk, available for inspection by, and dis-
22 tribution to, the public at all times. The publication shall
23 contain a notice stating that a complete copy of the law, code,
24 or rule is made available to the public at the office of the city
25 clerk in compliance with state law requiring that records of
26 public bodies be made available to the general public. A city

1 shall not enforce any provision adopted by reference for which
2 the maximum period of imprisonment is greater than 93 days.

3 (l) That the business of the legislative body shall be con-
4 ducted at a public meeting held in compliance with the open meet-
5 ings act, 1976 PA 267, MCL 15.261 to 15.275. All records of the
6 municipality shall be made available to the general public in
7 compliance with the freedom of information act, 1976 PA 442,
8 MCL 15.231 to 15.246.

9 (m) Keeping in the English language a written or printed
10 journal of each session of the legislative body.

11 (n) A system of accounts that conforms to a uniform system
12 of accounts as required by law.

13 Sec. 4a. (1) Each city in its charter may provide for the
14 borrowing of money on the credit of the city and issuing bonds
15 for the borrowing of money, for any purpose within the scope of
16 the powers of the city.

17 (2) Notwithstanding a charter provision to the contrary, the
18 net indebtedness incurred for all public purposes shall not
19 exceed the greater of the following:

20 (a) Ten percent of the assessed value of all the real and
21 personal property in the city.

22 (b) Fifteen percent of the assessed value of all the real
23 and personal property in the city if that portion of the total
24 amount of indebtedness incurred which exceeds 10% is or has been
25 used solely for the construction or renovation of hospital
26 facilities.

1 (3) In case of fire, flood, or other calamity, the
2 legislative body may borrow for the relief of the inhabitants of
3 the city and for the preservation of municipal property, a sum
4 not to exceed $\frac{3}{8}$ of 1% of the assessed value of all the real and
5 personal property in the city, due in not more than 5 years, even
6 if the loan would cause the indebtedness of the city to exceed
7 the limit established by this section.

8 (4) In computing the net indebtedness, all of the following
9 shall be excluded:

10 (a) Bonds issued in anticipation of the payment of special
11 assessments, even though they are also a general obligation of
12 the city.

13 (b) Mortgage bonds that are secured only by a mortgage on
14 the property or franchise of a public utility.

15 (c) Bonds issued to refund money advanced or paid on special
16 assessments for water main extensions.

17 (d) Motor vehicle highway fund bonds, even though they are
18 also a general obligation of the city.

19 (e) Revenue bonds.

20 (f) Bonds issued or contract or assessment obligations
21 incurred to comply with an order of the water resources commis-
22 sion or a court of competent jurisdiction.

23 (g) Obligations incurred before January 9, 1973 for water
24 supply, sewage, drainage, or refuse disposal, or resource recov-
25 ery projects, or incurred after January 8, 1973 for projects nec-
26 essary to protect the public health by abating pollution. A
27 certification by the county, district, or state health department

1 shall be sufficient proof that the project is necessary to
2 protect the public health by abating pollution.

3 (h) Bonds issued to acquire housing for which rent subsidies
4 will be received by the city or an agency of the city under a
5 contract with the United States government and used by the city
6 to operate and maintain the housing and pay principal and inter-
7 est on the bonds.

8 (i) Obligations entered into under an intergovernmental
9 self-insurance contract ~~pursuant to section 5 of Act No. 35 of~~
10 ~~the Public Acts of 1951, being section 124.5 of the Michigan~~
11 ~~Compiled Laws~~ SECTION 5 OF 1951 PA 35, MCL 124.5, or issued to
12 pay premiums or to establish funds to self-insure for losses
13 ~~pursuant to the municipal finance act, Act No. 202 of the Public~~
14 ~~Acts of 1943, being sections 131.1 to 139.3 of the Michigan~~
15 ~~Compiled Laws~~ UNDER THE REVISED MUNICIPAL FINANCE ACT, 2001
16 PA 34, MCL 141.2101 TO 141.2821.

17 (j) Bonds issued or assessments or contract obligations
18 incurred for the construction, improvement, or replacement of a
19 combined sewer overflow abatement facility. As used in this
20 subdivision:

21 (i) "Combined sewer overflow" means a discharge from a com-
22 bined sewer system that occurs when the flow capacity of the com-
23 bined sewer system is exceeded.

24 (ii) "Combined sewer overflow abatement facility" means any
25 works, instrumentalities, or equipment necessary or appropriate
26 to abate combined sewer overflows.

1 (iii) "Combined sewer system" means a sewer designed and
2 used to convey both storm water runoff and sanitary sewage, and
3 which contains lawfully installed regulators and control devices
4 that allow for delivery of sanitary flow to treatment during dry
5 weather periods and divert storm water and sanitary sewage to
6 surface waters during storm flow periods.

7 (iv) "Construction" means any action taken in the designing
8 or building of a combined sewer overflow abatement facility.

9 This term includes, but is not limited to, all of the following:

10 (A) Engineering services.

11 (B) Legal services.

12 (C) Financial services.

13 (D) Design of plans and specifications.

14 (E) Acquisition of land or structural components, or both.

15 (F) Building, erection, alteration, remodeling, or extension
16 of a combined sewer overflow abatement facility.

17 (G) City supervision of the project activities described in
18 sub-subparagraphs (A) to (F).

19 (v) "Improvement" means any action taken to expand, rehabil-
20 itate, or restore a combined sewer overflow abatement facility.

21 (vi) "Replacement" means any action taken to obtain and
22 install equipment, accessories, or appurtenances during the
23 useful life of a combined sewer overflow abatement facility nec-
24 essary to maintain the capacity and performance for which the
25 equipment, accessories, or appurtenances are designed and
26 constructed.

1 (5) The resources of the sinking fund pledged for the
2 retirement of any outstanding bonds shall also be deducted from
3 the amount of the indebtedness.

4 (6) An obligation for the construction, renovation, or mod-
5 ernization of a hospital ~~pursuant to~~ UNDER subsection (2)(b)
6 shall not be incurred after July 1, 1978 unless the construction,
7 renovation, or modernization has been approved in accordance with
8 any applicable act or unless the obligation is to refinance a
9 previous obligation.

10 (7) Each city may provide in its charter for the borrowing
11 of money and issuing bonds for the borrowing of money in antici-
12 pation of the payment of special assessments, which bonds may be
13 an obligation of the special assessment district or may be both
14 an obligation of the special assessment district and a general
15 obligation of the city.

16 (8) Bonds issued and obligations incurred before July 31,
17 1973 are validated.

18 (9) In computing the net indebtedness for the purposes of
19 subsection (2), there may be added to the assessed value of real
20 and personal property in a city for a fiscal year an amount equal
21 to the assessed value equivalent of certain city revenues as
22 determined under this subsection. The assessed value equivalent
23 shall be calculated by dividing the sum of the following amounts
24 by the city's millage rate for the fiscal year:

25 (a) The amount paid or the estimated amount required to be
26 paid by the state to the city during the city's fiscal year for
27 the city's use ~~pursuant to sections 134 and 136(1), (2), and (3)~~

1 of the single business tax act, Act No. 228 of the Public Acts of
2 1975, being sections 208.134 and 208.136 of the Michigan Compiled
3 Laws UNDER THE GLENN STEIL STATE REVENUE SHARING ACT OF 1971,
4 1971 PA 140, MCL 141.901 TO 141.921. The department of treasury
5 shall certify the amount upon request.

6 (b) The amount levied by the city for its own use during the
7 city's fiscal year from the specific tax levied under Act
8 No. 198 of the Public Acts of 1974, as amended, being sections
9 207.551 to 207.571 of the Michigan Compiled Laws 1974 PA 198,
10 MCL 207.551 TO 207.572.

11 (c) The amount levied by the city for its own use during the
12 city's fiscal year from the specific tax levied under the commer-
13 cial redevelopment act, Act No. 255 of the Public Acts of 1978,
14 being sections 207.651 to 207.668 of the Michigan Compiled Laws
15 1978 PA 255, MCL 207.651 TO 207.668.

16 Sec. 5. A city does not have power:

17 (a) To increase the rate of taxation now fixed by law,
18 unless the authority to do so is given by a majority of the elec-
19 tors of the city voting at the election at which the proposition
20 is submitted, but the increase in any case shall not be ~~such~~ IN
21 AN AMOUNT as to cause the rate to exceed 2%, except as provided
22 by law, of the assessed value of the real and personal property
23 in the city.

24 (b) To submit to the electors a charter more often than once
25 in every 2 years, nor unless the charter is filed with the city
26 clerk 60 days before the election, but this provision shall not
27 apply to the submission and resubmission of charters of cities

1 ~~which~~ THAT may be incorporated under this act until they shall
2 have first adopted a charter. Where a city submits to the elec-
3 tors a charter and the charter is adopted by the electors, and
4 the city has operated under the charter, which charter has not,
5 at the time it is adopted, been on file with the city clerk 60
6 days, then the legislative body of the city, upon its giving the
7 notice of election as provided in the charter, may resubmit to
8 the electors, at a special or general election, the charter,
9 which, if adopted by the electors, shall be considered operative
10 and effective as of the date of the first submission and
11 adoption. The charter shall not be resubmitted unless 60 days
12 have elapsed between the date of the filing of the charter and
13 the date of the election at which the charter is resubmitted.

14 (c) To call more than 2 special elections within 1 year.
15 This prohibition does not apply to elections ~~which~~ THAT may be
16 held in the submission and resubmission of charters of cities
17 ~~which~~ THAT may be incorporated under this act until they have
18 first adopted a charter, and does not apply to elections ~~which~~
19 THAT may be held in the resubmission of a charter once adopted as
20 provided in subdivision (b).

21 (d) To decrease the salary of a municipal judge after his or
22 her election or appointment, or during the judge's term of
23 office, notwithstanding any charter provision to the contrary. ~~→~~
24 ~~nor shall the~~ THE term of a public official SHALL NOT be short-
25 ened or extended beyond the period for which the official is
26 elected or appointed, unless he or she resigns or is removed for
27 cause, ~~where~~ IF the office is held for a fixed term.

1 (e) To adopt a charter or an amendment to the charter unless
2 approved by a majority of the electors voting ~~thereon~~ ON THE
3 QUESTION; to sell a park, cemetery, or any part of a park or cem-
4 etery, except where the park is not required under an official
5 master plan of the city; to engage in a business enterprise
6 requiring an investment of money in excess of 10 cents per
7 capita; or to authorize an issue of bonds except bonds issued in
8 anticipation of the collection of taxes actually levied and
9 uncollected or for which an appropriation has been made; bonds
10 ~~which~~ THAT the city is authorized by its charter to issue as
11 part of its budget system, to an amount ~~which~~ THAT in any year,
12 together with the taxes levied for the same year, will not exceed
13 the limit of taxation authorized by law; special assessment
14 bonds; bonds for the city's portion of local improvements;
15 refunding bonds; emergency bonds as defined by this act; and
16 bonds ~~which~~ THAT the legislative body is authorized by specific
17 statute to issue without vote of the electors, unless approved by
18 a majority of the electors voting ~~thereon~~ ON THE QUESTION at a
19 general or special election. In addition, ~~to the foregoing,~~ a
20 city ~~which~~ THAT now has, or ~~which~~ may ~~hereafter~~
21 SUBSEQUENTLY have, a population of 750,000 persons or more may
22 issue bonds, upon resolution of its governing body, without prior
23 approval of the electors, which the city is authorized by its
24 charter to issue as part of its budget system, to an amount
25 ~~which~~ THAT in any year, together with the ad valorem taxes
26 levied for the same year, exclusive of debt service taxes or
27 taxes levied pursuant to other laws, will not exceed 2-1/2% of

1 the assessed value of the real and personal property in the city,
2 this limitation to supersede and take the place of any contrary
3 language in any existing city charter. For the purposes of this
4 subdivision only, the assessed value of real and personal prop-
5 erty in any ~~such~~ city shall include the assessed value equiva-
6 lent of money received during the city's fiscal year ~~from the~~
7 ~~department of treasury pursuant to sections 134, and 136(1), (2),~~
8 ~~and (3) of Act No. 228 of the Public Acts of 1975, being sections~~
9 ~~208.134 and 208.136 of the Michigan Compiled Laws~~ UNDER THE
10 GLENN STEIL STATE REVENUE SHARING ACT OF 1971, 1971 PA 140,
11 MCL 141.901 TO 141.921. The assessed value equivalent shall be
12 calculated by dividing the money received by the city's millage
13 rate for the fiscal year. Notwithstanding the former provisions
14 of this subdivision requiring approval by 3/5 of the electors
15 voting ~~thereon~~ ON THE QUESTION as a prerequisite to the exer-
16 cise of certain powers, these powers may be exercised if approved
17 by a majority of the electors voting ~~thereon~~ ON THE QUESTION at
18 a general or special election held on or after April 1, 1966.

19 (f) To make a contract with, or give an official position
20 to, one who is in default to the city.

21 (g) To issue bonds without providing a sinking fund to pay
22 them at maturity, except as provided in section 4g(1), but sink-
23 ing funds shall not be required in the case of serial bonds
24 ~~which~~ THAT fall due annually. Bonds, whether authorized under
25 this act or any other act, except refunding bonds, revenue bonds,
26 motor vehicle highway fund bonds, rehabilitation bonds, judgment
27 bonds, bonds or other obligations issued to fund an operating

1 deficit of a city, bonds or other obligations to pay premiums or
2 to establish funds to self-insure for losses as authorized by the
3 ~~municipal finance act, Act No. 202 of the Public Acts of 1943,~~
4 ~~being sections 131.1 to 139.3 of the Michigan Compiled Laws~~
5 REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
6 141.2821, bonds the issuance of which has been approved by the
7 voters, and bonds issued to comply with an order of a court of
8 competent jurisdiction shall not be issued by a city unless
9 notice of the issuance of the bonds is published once in a news-
10 paper of general circulation in the city at least 45 days before
11 the issuance of the bonds, within which period a petition may be
12 filed with the legislative body signed by not less than 10% or
13 15,000 of the registered electors in the city, whichever is less,
14 in which event the legislative body shall submit the question of
15 the issuance of the bonds to the electors of the city, at a regu-
16 lar or special election in the city. The bonds shall not be
17 issued unless a majority vote of the electors voting on the issu-
18 ance vote in favor of issuing the bonds. The notice of intent to
19 issue bonds shall state the maximum amount of the bond issue, the
20 purpose of the bond issuance, source of payment, right of refer-
21 endum on the issuance of the bonds, and other information as the
22 legislative body determines to be necessary to adequately inform
23 the electors and all other interested persons of the nature of
24 the issue and of their rights with respect to the issue. ~~If a~~
25 ~~notice of intent has been published before July 31, 1973, in sub-~~
26 ~~stantial compliance with this section, and the referendum period~~
27 ~~formerly provided by this section has expired, but the bonds have~~

~~1 not been issued, the notice and the publication of the notice are
2 hereby validated and, if no petition for a referendum on issuance
3 of the bonds has been or is signed and filed within the time
4 period formerly provided by this section, the bonds may be issued
5 without submitting the proposition for approval to the electors,
6 or if a petition has been or is so signed and filed, the bonds
7 may be issued if approved at an election as provided in this
8 subdivision.~~

9 (h) To repudiate a debt by a change in its charter or by
10 consolidation with any other municipality.

11 (i) To submit a franchise to the electors at a special elec-
12 tion, unless the expense of holding the election, as determined
13 by the legislative body, is paid in advance to the city treasurer
14 by the grantee in the franchise.

15 Sec. 5f. (1) The legislative body of a city may provide by
16 resolution for energy conservation improvements to be made to
17 city facilities and may pay for the improvements from the general
18 fund of the city or from the savings ~~which~~ THAT result from the
19 energy conservation improvements. Energy conservation improve-
20 ments may include, but are not limited to, heating system
21 improvements, fenestration improvements, roof improvements, the
22 installation of any insulation, the installation or repair of
23 heating or air conditioning controls, and entrance or exit way
24 closures.

25 (2) The legislative body of a city may acquire 1 or more of
26 the energy conservation improvements described in subsection (1)
27 by installment contract or may borrow money and issue notes for

1 the purpose of securing funds for the improvements or may enter
2 into contracts in which the cost of the energy conservation
3 improvements is paid from a portion of the savings ~~which~~ THAT
4 result from the energy conservation improvements. These contrac-
5 tual agreements may provide that the cost of the energy conserva-
6 tion improvements are paid only if the energy savings are suffi-
7 cient to cover their cost. An installment contract or notes
8 issued pursuant to this subsection shall extend for a period of
9 time not to exceed 10 years. Notes issued pursuant to this sub-
10 section shall be full faith and credit, tax limited obligations
11 of the city, payable from tax levies and the general fund as
12 pledged by the legislative body of the city. The notes shall be
13 subject to the ~~municipal finance act, Act No. 202 of the Public~~
14 ~~Acts of 1943, being sections 131.1 to 139.3 of the Michigan~~
15 ~~Compiled Laws. The notes shall bear interest at a rate deter-~~
16 ~~mined by the legislative body of the city, not to exceed the rate~~
17 ~~provided in section 1a of chapter III of the municipal finance~~
18 ~~act, Act No. 202 of the Public Acts of 1943, being section 133.1a~~
19 ~~of the Michigan Compiled Laws~~ REVISED MUNICIPAL FINANCE ACT,
20 2001 PA 34, MCL 141.2101 TO 141.2821. This subsection does not
21 limit in any manner the borrowing or bonding authority of a city
22 as provided by law.

23 (3) If energy conservation improvements are made as provided
24 in this section, the legislative body of a city shall report the
25 following information to the Michigan public service commission
26 within 60 days of the completion of the improvements:

1 (a) Name of each facility to which an improvement is made
2 and a description of the conservation improvement.

3 (b) Actual energy consumption during the 12-month period
4 before completion of the improvement.

5 (c) Project costs and expenditures.

6 (d) Estimated annual energy savings.

7 (4) If energy conservation improvements are made as provided
8 in this section, the legislative body of a city shall report to
9 the Michigan public service commission, by July 1 of each of the
10 5 years after the improvements are completed, only the actual
11 annual energy consumption of each facility to which improvements
12 are made. The forms for the reports required by this section
13 shall be furnished by the Michigan public service commission.