

HOUSE BILL No. 5571

November 3, 2009, Introduced by Rep. Miller and referred to the Committee on Labor.

A bill to amend 1966 PA 293, entitled

"An act to provide for the establishment of charter counties; to provide for the election of charter commissioners; to prescribe their powers and duties; to prohibit certain acts of a county board of commissioners after the approval of the election of a charter commission; to prescribe the mandatory and permissive provisions of a charter; to provide for the exercise by a charter county of certain powers whether or not authorized by its charter; and to prescribe penalties and provide remedies,"

by amending sections 14 and 15 (MCL 45.514 and 45.515), section 14 as amended by 2005 PA 208 and section 15 as amended by 1980 PA 7.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 14. (1) A county charter adopted under this act shall
2 provide for all of the following:

3 (a) In a county having a population of less than 1,500,000,
4 for a salaried county executive, who shall be elected at large on a
5 partisan basis, and for the county executive's authority, duties,

1 and responsibilities. In a county having a population of 1,500,000,
2 or more, a county charter adopted under this act shall provide for
3 a form of executive government described and adopted under section
4 11a.

5 (b) The election of a legislative body to be known as the
6 county board of commissioners, whose term of office shall be
7 concurrent with that of state representatives, and for their
8 authority, duties, responsibilities, and number which shall be not
9 less than 5 nor more than 21 in counties of less than 600,000, and
10 not less than 5 nor more than 27 in counties of 600,000 or more.
11 The county board of commissioners shall provide by ordinance for
12 their compensation and may increase or decrease their compensation.
13 A change in compensation shall not be effective during the term of
14 office for which the legislative body making the change was
15 elected. The charter shall also provide for the partisan election
16 of members of the legislative body from single member districts to
17 be established by the county apportionment commission as created in
18 section 5 and pursuant to the standards and guidelines established
19 in section 5 for reapportionment based upon the last official
20 federal decennial census, effective at the first regular general
21 election of the members of the legislative body occurring not less
22 than 12 months after the completion and certification of the
23 federal census. Each city and township shall be apportioned so that
24 it has the largest possible number of complete districts within its
25 boundaries before any part of the city or township is joined to
26 territory outside the boundaries of the city or township to form a
27 district.

1 (c) The partisan election of a sheriff, a prosecuting
2 attorney, a county clerk, a county treasurer, and a register of
3 deeds, and for the authority of the county board of commissioners
4 to combine the county clerk and register of deeds into 1 office as
5 authorized by law.

6 (d) Except as provided in subdivision (c), the continuation of
7 all existing county offices, boards, commissions, and departments
8 whether established by law or by action of the county board of
9 commissioners; the performance of their respective duties by other
10 county offices, boards, commissions, and departments; or for the
11 discontinuance of these county offices, boards, commissions, and
12 departments. Notwithstanding this subdivision in relation to
13 existing county offices, boards, commissions, and departments, a
14 county charter shall insure the following:

15 (i) Except as otherwise provided under subsection (2), in a
16 county having a population of less than 1,500,000, the charter
17 shall not be in derogation of the powers and duties of the county
18 road commission in the exercise of their statutory duties
19 concerning the preservation of a county road system. The charter
20 for these counties shall provide for the creation of a commission
21 consisting of not fewer than 3 or more than 5 members. Not less
22 than 1 member of the commission shall be a resident of a township
23 within the county.

24 (ii) Except as otherwise provided in subsection (2), in a
25 county having a population of 1,500,000 or more, the charter shall
26 provide for the continuation of a county road system within the
27 county. Notwithstanding any other provisions of this act, the

1 charter described in this subparagraph shall provide that
2 responsibility for the determination of the expenditure of all
3 funds for road construction and road maintenance, and for carrying
4 out the powers and duties pertaining to a county road system as
5 provided in sections 9 to 32 of chapter 4 of 1909 PA 283, MCL 224.9
6 to 224.32, shall be vested in a commission consisting of not fewer
7 than 3 or more than 5 members. The charter shall provide that 1
8 member of the commission shall be a resident of the most populous
9 city in the county, 1 member shall be a resident of a city other
10 than the most populous city within the county, and that 1 member
11 shall be a resident of a township within the county. The charter
12 shall provide that the commission shall be appointed by either the
13 elected county executive or the chief administrative officer.
14 Appointment to the commission shall require advice and consent by a
15 majority of the county board of commissioners elected and serving
16 not more than 60 days after the appointment. If the county board of
17 commissioners does not vote on the appointment within 60 days, the
18 appointment shall become final. The charter may provide for the
19 number of members and a fixed term of years for the members of the
20 commission, but the charter shall provide that the members of the
21 commission may be removed at the pleasure of the elected county
22 executive or the chief administrative officer. The charter shall
23 specify duties and procedures to assure that administrative
24 decisions made for road construction shall be coordinated with
25 administrative decisions made for other programs which relate to
26 roads. As used in this subparagraph, "road construction" means all
27 of the following:

1 (A) The building of a new road or street and the improving of
2 an existing road or street by correction grades, drainage
3 structures, width, alignment, or surface.

4 (B) The building of bridges or grade separations and the
5 repair of these structures by strengthening, widening, and the
6 replacement of piers and abutments.

7 (C) The initial signing of newly constructed roads or streets,
8 major resigning of projects, and the installation, replacement, or
9 improvement of traffic signals.

10 (e) The continuation and implementation of a system of
11 pensions and retirement for county officers and employees in those
12 counties having a system in effect at the time of the adoption of
13 the charter. The system provided under the charter shall recognize
14 the accrued rights and benefits of the officers and employees under
15 the system then in effect. The charter shall not infringe upon nor
16 be in derogation of those accrued rights and benefits. The charter
17 shall not preclude future modification of the system.

18 (f) The continuation and implementation of a system of civil
19 service in those counties having a system at the time of the
20 adoption of the charter. The system of civil service provided under
21 the charter shall recognize the rights and status of persons under
22 the civil service system then in effect. The charter shall not
23 infringe upon nor be in derogation of those rights and that status.
24 The charter shall not preclude future modification of the system.
25 Except as provided in subdivision (d), the charter shall provide
26 that the system of civil service be coordinated among the county
27 offices, boards, commissions, and departments.

1 (g) That the general statutes and local acts of this state
2 regarding counties and county officers shall continue in effect
3 except to the extent that this act permits the charter to provide
4 otherwise, if the charter does in fact provide otherwise.

5 (h) That all ordinances of the county shall remain in effect
6 unless changed by the charter or an ordinance adopted under the
7 charter.

8 (i) The power and authority to adopt, amend, and repeal any
9 ordinance authorized by law, or necessary to carry out any power,
10 function, or service authorized by this act and by the charter.

11 (j) The power and authority to enter into any
12 intergovernmental contract which is not specifically prohibited by
13 law.

14 (k) The power and authority to join, establish, or form with
15 any other governmental unit an intergovernmental district or
16 authority for the purpose of performing a public function or
17 service, which each is authorized to perform separately, the
18 performance of which is not prohibited by law.

19 (l) A debt limit of not to exceed 10% of the state equalized
20 value of the taxable property within the county.

21 (m) The levy and collection of taxes, the fixing of an ad
22 valorem property tax limitation of not to exceed 1% of the state
23 equalized value of the taxable property within the county, and that
24 the levy of taxes from within this ad valorem property tax
25 limitation shall not exceed, unless otherwise approved by the
26 electors, the tax rate in mills, equal to the number of mills
27 allocated to the county either by a county tax allocation board or

1 by a separate tax limitation under the property tax limitation act,
2 1933 PA 62, MCL 211.201 to 211.217a, in the year immediately
3 preceding the year in which the county adopts a charter.

4 (n) Initiative and referendum on all matters within the scope
5 of the county's power and authority; and for the recall of all
6 county officials.

7 (o) Amendment or revision of the charter initiated either by
8 action of the legislative body of the county or by initiatory
9 process. An amendment or revision shall not become effective unless
10 the amendment or revision is submitted to the electorate of the
11 county and approved by a majority of those voting.

12 (p) That the acquisition, operation, and sale of public
13 utility facilities for furnishing light, heat, or power shall be
14 subject to the same restrictions as imposed on cities and villages
15 by the state constitution of 1963 and applicable law.

16 (q) Annual preparation, review, approval, and adherence to a
17 balanced budget in a manner which assures coordination among the
18 county offices, boards, commissions, and departments, except as
19 provided in subdivision (d).

20 (r) An annual audit by an independent certified public
21 accountant of all county funds.

22 (s) That a county that incurs a budget deficit in any fiscal
23 year shall prepare and submit a detailed and specific 5-year plan
24 for short term financial recovery and long range financial
25 stability to the governor and the legislature, before adoption of
26 the next annual county budget, for review. The 5-year plan shall
27 include, but not be limited to, a projection of annual revenues and

1 expenditures, an employee classification and pay plan, a capital
2 improvements budget, and equipment replacement schedules.

3 (2) Subsection (1)(d) shall not apply to a county in which the
4 charter is amended to provide for an alternative method of carrying
5 out the powers and duties which are otherwise provided by law for a
6 board of county road commissioners.

7 (3) The county board of commissioners may by resolution
8 provide for staggered terms of office for the road commissioners
9 under subsection (1)(d) so that not more than 2 road commissioners'
10 terms of office expire in the same year.

11 (4) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY,
12 NO PENSION PAID UNDER THIS SECTION SHALL BE PAID WITH A PENSION
13 AMOUNT CALCULATED THAT IS BASED ON A SALARY THAT IS HIGHER THAN THE
14 SALARY OF THE GOVERNOR OF THIS STATE AT THE TIME THE PENSION IS
15 CALCULATED. THIS SUBSECTION DOES NOT MODIFY TERMS RELATING TO A
16 PENSION GRANTED UNDER THE AUTHORITY OF THIS SECTION UNDER WHICH A
17 RECIPIENT OF THE PENSION RETIRED BEFORE THE EFFECTIVE DATE OF THE
18 AMENDATORY ACT THAT ADDED THIS SUBSECTION. IF A COLLECTIVE
19 BARGAINING AGREEMENT OR OTHER BINDING AGREEMENT IS IN EFFECT ON THE
20 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION AND
21 THE COLLECTIVE BARGAINING AGREEMENT OR OTHER BINDING AGREEMENT
22 AFFECTS A PENSION GRANTED UNDER THIS SECTION, THE PENSION SHALL BE
23 ADMINISTERED IN ACCORDANCE WITH THE COLLECTIVE BARGAINING AGREEMENT
24 OR OTHER BINDING AGREEMENT UNTIL THE EXPIRATION OF THE COLLECTIVE
25 BARGAINING AGREEMENT OR OTHER BINDING AGREEMENT IF THERE IS A
26 CONFLICT BETWEEN THIS SUBSECTION AND THE COLLECTIVE BARGAINING
27 AGREEMENT OR OTHER BINDING AGREEMENT.

1 Sec. 15. (1) A county charter adopted under the provisions of
2 this act may provide for 1 or more of the following:

3 (a) The office of corporation counsel, public defender,
4 auditor general, and all other offices, boards, commissions, or
5 departments necessary for the efficient operation of county
6 government. The charter may also provide for the power and
7 authority to establish, by ordinance, other offices, boards,
8 commissions, and departments as may become necessary.

9 (b) That the legislative body of any unit of government which
10 is wholly or partially within the county may transfer, subject to
11 the approval of the legislative body of the county and upon
12 mutually agreed conditions, any municipal function or service to
13 the county if the performance of that function or service, by the
14 county is not specifically prohibited by law, and if the function
15 or service is offered on a county-wide basis.

16 (c) The authority to perform at the county level any function
17 or service not prohibited by law, which shall include, by way of
18 enumeration and not limitation: Police protection, fire protection,
19 planning, zoning, education, health, welfare, recreation, water,
20 sewer, waste disposal, transportation, abatement of air and water
21 pollution, civil defense, and any other function or service
22 necessary or beneficial to the public health, safety, and general
23 welfare of the county. Powers granted solely by charter may not be
24 exercised by the charter county in a local unit of government which
25 is exercising a similar power without the consent of the local
26 legislative body. The cost of any service authorized by charter to
27 be performed by the county, may be determined by negotiation

1 between the local unit of government and the charter county and
2 this cost shall be charged to the local unit of government or area
3 benefited by the service, unless it is rendered on a county-wide
4 basis in which event the cost may be paid from the general fund of
5 the county. If a function exercised by a local unit of government
6 is transferred to the county and becomes a county function financed
7 through the general fund of the county, the county shall reimburse
8 a local unit of government a negotiated sum representing the value
9 of the transferred capital assets of the function owned by and paid
10 for by the local unit of government, including outstanding bonded
11 indebtedness of the local unit of government.

12 (d) The establishment and maintenance, either within or
13 outside of the county corporate limits, of roads, parks,
14 cemeteries, hospitals, medical facilities, airports, ports, jails,
15 water supply and transmission facilities, sewage transmission and
16 disposal systems, all public works, or other types of facility
17 necessary to preserve and provide effectively for the public
18 health, safety, and general welfare of the county.

19 (e) The power and authority to levy and collect any taxes,
20 fees, rents, tolls, or excises, the levy and collection of which is
21 authorized by law. A tax on income may not be levied by the county
22 unless authorized by law.

23 (f) A system of retirement for county officers and employees.

24 (g) A classified civil service or merit system for county
25 officers and employees, except those officers and employees who are
26 expressly exempted from civil service by either the state
27 constitution of 1963 or statute.

1 (h) The election or appointment of a drain commissioner.

2 (2) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY,
3 NO PENSION PAID UNDER THIS SECTION SHALL BE PAID WITH A PENSION
4 AMOUNT CALCULATED THAT IS BASED ON A SALARY THAT INCLUDES OVERTIME
5 PAY. THIS SUBSECTION DOES NOT MODIFY TERMS RELATING TO A PENSION
6 GRANTED UNDER THE AUTHORITY OF THIS SECTION UNDER WHICH A RECIPIENT
7 OF THE PENSION RETIRED BEFORE THE EFFECTIVE DATE OF THE AMENDATORY
8 ACT THAT ADDED THIS SUBSECTION. IF A COLLECTIVE BARGAINING
9 AGREEMENT OR OTHER BINDING AGREEMENT IS IN EFFECT ON THE EFFECTIVE
10 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION AND THE
11 COLLECTIVE BARGAINING AGREEMENT OR OTHER BINDING AGREEMENT AFFECTS
12 A PENSION GRANTED UNDER THIS SECTION, THE PENSION SHALL BE
13 ADMINISTERED IN ACCORDANCE WITH THE COLLECTIVE BARGAINING AGREEMENT
14 OR OTHER BINDING AGREEMENT UNTIL THE EXPIRATION OF THE COLLECTIVE
15 BARGAINING AGREEMENT OR OTHER BINDING AGREEMENT IF THERE IS A
16 CONFLICT BETWEEN THIS SUBSECTION AND THE COLLECTIVE BARGAINING
17 AGREEMENT OR OTHER BINDING AGREEMENT.

18 Enacting section 1. This amendatory act does not take effect
19 unless Senate Bill No.____ or House Bill No. 5572(request no.
20 04599'09) of the 95th Legislature is enacted into law.