

HOUSE BILL No. 5304

November 30, 2017, Introduced by Reps. Crawford, Albert and Lower and referred to the Committee on Michigan Competitiveness.

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, 14a, and 15 (MCL 45.514, 45.514a, and 45.515), section 14 as amended by 2005 PA 208, section 14a as added by 2012 PA 466, and section 15 as amended by 1980 PA 7, and by adding section 15c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

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

1 construction" means all of the following:

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

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

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

11 (e) ~~The~~ **SUBJECT TO SECTION 15C, THE** continuation and
12 implementation of a system of pensions and retirement for county
13 officers and employees in those counties ~~having~~ **THAT HAVE** a system
14 in effect at the time of the adoption of the charter. The system
15 provided under the charter ~~shall~~ **MUST** recognize the accrued rights
16 and benefits of the officers and employees under the system then in
17 effect. The charter ~~shall~~ **MUST** not infringe ~~upon~~ **ON** nor be in
18 derogation of those accrued rights and benefits. ~~The~~ **SUBJECT TO**
19 **SECTION 15C, THE** charter ~~shall~~ **MUST** not preclude future
20 modification of the system.

21 (f) The continuation and implementation of a system of civil
22 service in those counties having a system at the time of the
23 adoption of the charter. The system of civil service provided under
24 the charter ~~shall~~ **MUST** recognize the rights and status of persons
25 under the civil service system then in effect. The charter ~~shall~~
26 **MUST** not infringe ~~upon~~ **ON** nor be in derogation of those rights and
27 that status. The charter ~~shall~~ **MUST** not preclude future

1 modification of the system. Except as provided in subdivision (d),
2 the charter ~~shall~~**MUST** provide that the system of civil service be
3 coordinated among the county offices, boards, commissions, and
4 departments.

5 (g) That the general statutes and local acts of this state
6 regarding counties and county officers ~~shall~~**WILL** continue in
7 effect except to the extent that this act permits the charter to
8 provide otherwise, if the charter does in fact provide otherwise.

9 (h) That all ordinances of the county ~~shall~~**WILL** remain in
10 effect unless changed by the charter or an ordinance adopted under
11 the charter.

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

15 (j) The power and authority to enter into any
16 intergovernmental contract which is not specifically prohibited by
17 law.

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

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

25 (m) The levy and collection of taxes, the fixing of an ad
26 valorem property tax limitation of not to exceed 1% of the state
27 equalized value of the taxable property within the county, and that

1 the levy of taxes from within this ad valorem property tax
2 limitation ~~shall~~**MUST** not exceed, unless otherwise approved by the
3 electors, the tax rate in mills, equal to the number of mills
4 allocated to the county either by a county tax allocation board or
5 by a separate tax limitation under the property tax limitation act,
6 1933 PA 62, MCL 211.201 to 211.217a, in the year immediately
7 preceding the year in which the county adopts a charter.

8 (n) Initiative and referendum on all matters within the scope
9 of the county's power and authority; and for the recall of all
10 county officials.

11 (o) Amendment or revision of the charter initiated either by
12 action of the legislative body of the county or by initiatory
13 process. An amendment or revision ~~shall~~**MUST** not become effective
14 unless the amendment or revision is submitted to the electorate of
15 the county and approved by a majority of those voting.

16 (p) That the acquisition, operation, and sale of public
17 utility facilities for furnishing light, heat, or power ~~shall~~**MUST**
18 be subject to the same restrictions as imposed on cities and
19 villages by the state constitution of 1963 and applicable law.

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

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

26 (s) That a county that incurs a budget deficit in any fiscal
27 year shall prepare and submit a detailed and specific 5-year plan

1 for ~~short term~~ **SHORT-TERM** financial recovery and ~~long range~~ **LONG-**
2 **RANGE** financial stability to the governor and the legislature,
3 before adoption of the next annual county budget, for review. The
4 5-year plan ~~shall~~ **MUST** include, but not be limited to, a projection
5 of annual revenues and expenditures, an employee classification and
6 pay plan, a capital improvements budget, and equipment replacement
7 schedules.

8 (2) Subsection (1)(d) ~~shall~~ **DOES** not apply to a county in
9 which the charter is amended to provide for an alternative method
10 of carrying out the powers and duties which are otherwise provided
11 by law for a board of county road commissioners.

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

16 Sec. 14a. (1) Beginning September 30, 2014, each county road
17 agency shall annually certify to the department that it satisfies 1
18 of the following conditions with respect to transportation
19 employees:

20 (a) The county road agency has developed and publicized a
21 transportation employee compensation plan that the county road
22 agency intends to implement with any new, modified, or extended
23 contract or employment agreements for transportation employees not
24 covered under contract or employment agreement. The transportation
25 employee compensation plan that each county road agency plans to
26 achieve ~~shall~~ **MUST** be posted on a publicly accessible internet site
27 and ~~shall~~ **MUST** be submitted to the department. ~~At~~ **SUBJECT TO**

1 **SECTION 15C, AT** a minimum, the transportation employee compensation
2 plan ~~shall~~**MUST** include all of the following:

3 (i) New transportation employee hires who are eligible for
4 retirement plans are placed on retirement plans that cap annual
5 employer contributions at 10% of base salary for transportation
6 employees who are eligible for social security benefits. For
7 transportation employees who are not eligible for social security
8 benefits, the annual employer contribution is capped at 16.2% of
9 base salary.

10 (ii) For defined benefit pension plans, a maximum multiplier
11 of 1.5% for all transportation employees who are eligible for
12 social security benefits, except, if postemployment health care is
13 not provided, the maximum multiplier shall be 2.25%. For all
14 transportation employees who are not eligible for social security
15 benefits, a maximum multiplier of 2.25%, except, if postemployment
16 health care is not provided, the maximum multiplier ~~shall~~**MUST** be
17 3.0%. This subparagraph does not apply to years of service accrued
18 ~~prior to~~**BEFORE** September 30, 2013, or to contracts entered into
19 ~~prior to~~**BEFORE** September 30, 2013.

20 (iii) For defined benefit pension plans, final average
21 compensation for all transportation employees is calculated using a
22 minimum of 3 years of compensation and ~~shall~~**MUST** not include more
23 than a total of 240 hours of paid leave. Overtime hours ~~shall~~**MUST**
24 not be used in computing the final average compensation for a
25 transportation employee. This subparagraph does not apply to years
26 of service accrued ~~prior to~~**BEFORE** September 30, 2013, or to
27 contracts entered into ~~prior to~~**BEFORE** September 30, 2013.

1 (iv) Health care premium costs for new transportation employee
2 hires ~~shall~~**MUST** include a minimum transportation employee share of
3 20%; or, an employer's share of the local health care plan costs
4 ~~shall~~**MUST** be cost competitive with the new state preferred
5 provider organization health plan, on a per-transportation-employee
6 basis.

7 (b) The county road agency complies with 1 of the following:

8 (i) A county road agency that offers medical benefits to its
9 transportation employees or elected public officials shall certify
10 to the department by September 30, 2014 that it is in compliance
11 with the publicly funded health insurance contribution act, 2011 PA
12 152, MCL 15.561 to 15.569. For purposes of this subparagraph,
13 dental and vision coverages are not considered medical benefits.
14 The department shall develop a certification process and method for
15 county road agencies to follow.

16 (ii) A county road agency that does not offer medical benefits
17 to its transportation employees or elected public officials shall
18 certify to the department by September 30, 2014 that it does not
19 offer medical benefits to its transportation employees or elected
20 public officials. For purposes of this subparagraph, dental and
21 vision coverages are not considered medical benefits. The
22 department shall develop a certification process and method for
23 county road agencies to follow.

24 (2) If a county road agency does not make the certification
25 required under subsection (1), the department may withhold all or
26 part of the distributions to the county road agency from the
27 Michigan transportation fund under 1951 PA 51, MCL 247.651 to

1 247.675. A withholding under this subsection ~~shall~~**MUST** continue
2 for the period of noncompliance with subsection (1) by the county
3 road agency.

4 (3) A county road agency shall maintain a searchable website
5 accessible by the public at no cost that includes, but is not
6 limited to, all of the following:

7 (a) Current fiscal year budget.

8 (b) The number of active transportation employees of the
9 county road agency by job classification and wage rate.

10 (c) A financial performance dashboard that contains
11 information on revenues, expenditures, and unfunded liabilities.
12 The county road agency may link to financial information provided
13 by the Michigan transportation asset management council.

14 (d) The names and contact information for the governing body
15 of the county road agency.

16 (e) A copy of the certification required by subsection (1).

17 (4) A county road agency may develop and operate its own
18 website to provide the information required under subsection (3),
19 or the county road agency may reference this state's central
20 transparency website as the source for the information required
21 under subsection (3). If a county road agency does not have a
22 website, the county road agency may post the information required
23 under subsection (3) on the website for the county within which the
24 county road agency is located or on the website of a statewide road
25 association of which the county road agency is a member.

26 (5) As used in this section:

27 (a) "County road agency" means a county road commission or a

1 body that has the powers of a county road commission in a county
 2 that adopts a charter under this act. In addition, if a board of
 3 county road commissioners of a county is dissolved as provided in
 4 section 6 of chapter IV of 1909 PA 283, MCL 224.6, county road
 5 commission includes the county board of commissioners of that
 6 county.

7 (b) "Department" means the state transportation department.

8 (c) "Transportation employee" means an employee paid in whole
 9 or in part through revenues distributed under sections 12 to 13 of
 10 1951 PA 51, MCL 247.662 to 247.663, or an employee who is engaged
 11 primarily in work funded through revenues distributed under
 12 sections 12 to 13 of 1951 PA 51, MCL 247.662 to 247.663.

13 Sec. 15. A county charter adopted under ~~the provisions of this~~
 14 act may provide for 1 or more of the following:

15 (a) The office of corporation counsel, public defender,
 16 auditor general, and all other offices, boards, commissions, or
 17 departments necessary for the efficient operation of county
 18 government. The charter may also provide for the power and
 19 authority to establish, by ordinance, other offices, boards,
 20 commissions, and departments as may become necessary.

21 (b) That the legislative body of any unit of government ~~which~~
 22 **THAT** is wholly or partially within the county may transfer, subject
 23 to the approval of the legislative body of the county and ~~upon~~**ON**
 24 mutually agreed conditions, ~~any~~**A** municipal function or service to
 25 the county if the performance of ~~that~~**THE** function or service ~~by~~
 26 the county is not specifically prohibited by law, and if the
 27 function or service is offered on a ~~county-wide~~**COUNTYWIDE** basis.

1 (c) The authority to perform at the county level any function
2 or service not prohibited by law, ~~which shall include, by way of~~
3 ~~enumeration and not limitation: Police~~ **INCLUDING, BUT NOT LIMITED**
4 **TO, POLICE** protection, fire protection, planning, zoning,
5 education, health, welfare, recreation, water, sewer, waste
6 disposal, transportation, abatement of air and water pollution,
7 civil defense, and any other function or service necessary or
8 beneficial to the public health, safety, and general welfare of the
9 county. Powers granted solely by charter may not be exercised by
10 the charter county in a local unit of government ~~which~~ **THAT** is
11 exercising a similar power without the consent of the local
12 legislative body. The cost of ~~any~~ **A** service authorized by charter
13 to be performed by the county, may be determined by negotiation
14 between the local unit of government and the charter county and
15 ~~this~~ **THE** cost ~~shall~~ **MUST** be charged to the local unit of government
16 or area benefited by the service, unless it is rendered on a
17 ~~county-wide~~ **COUNTYWIDE** basis in which event the cost may be paid
18 from the general fund of the county. If a function exercised by a
19 local unit of government is transferred to the county and becomes a
20 county function financed through the general fund of the county,
21 the county shall reimburse a local unit of government a negotiated
22 sum representing the value of the transferred capital assets of the
23 function owned by and paid for by the local unit of government,
24 including outstanding bonded indebtedness of the local unit of
25 government.

26 (d) The establishment and maintenance, either within or
27 outside of the county corporate limits, of roads, parks,

1 cemeteries, hospitals, medical facilities, airports, ports, jails,
 2 water supply and transmission facilities, sewage transmission and
 3 disposal systems, all public works, or other types of ~~facility~~
 4 **FACILITIES** necessary to preserve and provide effectively for the
 5 public health, safety, and general welfare of the county.

6 (e) The power and authority to levy and collect ~~any~~ taxes,
 7 fees, rents, tolls, or excises, the levy and collection of which is
 8 authorized by law. ~~A~~ **THE COUNTY MAY NOT LEVY A** tax on income ~~may~~
 9 ~~not be levied by the county unless~~ authorized by law.

10 (f) ~~A~~ **SUBJECT TO SECTION 15C, A** system of retirement for
 11 county officers and employees.

12 (g) A classified civil service or merit system for county
 13 officers and employees, except those officers and employees who are
 14 expressly exempted from civil service by either the state
 15 constitution of 1963 or ~~statute~~ **LAW**.

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

17 **SEC. 15C. IF A COUNTY PROVIDES A SYSTEM OF RETIREMENT FOR ITS**
 18 **OFFICERS AND EMPLOYEES UNDER THIS ACT, THE SYSTEM OF RETIREMENT IS**
 19 **SUBJECT TO THE PROTECTING LOCAL GOVERNMENT RETIREMENT AND BENEFITS**
 20 **ACT.**

21 Enacting section 1. This amendatory act does not take effect
 22 unless Senate Bill No. ____ or House Bill No. 5298 (request no.
 23 00251'17 *) of the 99th Legislature is enacted into law.