

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 4503

(As passed the House, February 3, 1998)

A bill to amend 1851 PA 156, entitled

"An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act,"

by amending sections 3, 3a, 10b, and 11 (MCL 46.3, 46.3a, 46.10b, and 46.11), section 10b as amended by 1996 PA 40 and section 11 as amended by 1996 PA 396; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) A majority of the members of the county board
2 of commissioners of a county shall constitute a quorum for the
3 transaction of the ordinary business of the county. ~~and ques-~~
4 ~~tions which~~

5 (2) QUESTIONS THAT arise at ~~its~~ meetings OF THE COUNTY
6 BOARD OF COMMISSIONERS shall be determined by the votes of a
7 majority of the members present. ~~, except upon~~ HOWEVER, the

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1 final passage or adoption of a measure or resolution ~~—~~ or the
2 allowance of a claim against the county ~~—, in which case~~ SHALL
3 BE DETERMINED BY a majority of the members elected and serving.
4 ~~shall be necessary.~~ THE COUNTY BOARD OF COMMISSIONERS MAY
5 REQUIRE IN ITS BYLAWS THAT THE VOTES OF 2/3 OF THE MEMBERS
6 PRESENT OR A MAJORITY OF THE MEMBERS ELECTED AND SERVING, WHICH-
7 EVER IS GREATER, ARE REQUIRED ON FINAL PASSAGE OR ADOPTION OF A
8 NONAGENDA ITEM. THE VOTING REQUIREMENTS OF THIS SUBSECTION DO
9 NOT APPLY IF SECTION 11 OR ANY OTHER PROVISION OF LAW IMPOSES A
10 HIGHER VOTING REQUIREMENT.

11 (3) When taking the yeas and nays on a question to be voted
12 upon, an electrical roll call system may be used.

13 (4) The county board of commissioners at its first meeting
14 in each year shall choose 1 member as chairperson and 1 member as
15 vice-chairperson. The chairperson shall preside at a meeting of
16 the board during the year, ~~if present,~~ but if the chairperson
17 is absent from a meeting, the vice-chairperson shall preside. A
18 chairperson may administer an oath to a person concerning a
19 matter submitted to the board or connected with the discharge of
20 its duties, may issue subpoenas for witnesses, and may compel the
21 attendance of a witness in the same manner as a court of law.
22 The board may designate 1 member to affix his or her signature to
23 contracts, bonds, and other documents requiring the signature of
24 the chairperson, if the chairperson is unable to so do because of
25 illness or other exigency which, in the opinion of the board,
26 prevents the chairperson from performing the functions of the
27 office.

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1 (5) A member of the board, while a member of the board,
2 ~~shall not be eligible to~~ IS NOT ELIGIBLE FOR election to any
3 other county office or position, the election of which is within
4 the jurisdiction of the county board of commissioners.

5 Sec. 3a. The names and votes of members shall be recorded
6 on an action ~~which is~~ taken by the board of county commission-
7 ers or by a committee of the board of county commissioners if the
8 action is on an ordinance ~~, resolution,~~ or THE appointment or
9 election of an officer, except the vote for ~~chairman~~
10 CHAIRPERSON may be by secret ballot. The vote and the name of
11 the member voting on other questions or motions shall be recorded
12 at the request of ~~—~~ 1/5 of the members present if the question
13 or motion is before the board, or 1/3 of the members present if
14 the question or motion is before a committee of the board. A
15 record ~~which~~ THAT is made pursuant to this section shall be
16 available for public inspection.

17 Sec. 10b. (1) Except for an ordinance described in subsec-
18 tion (2) or (3), the violation of an ordinance adopted pursuant
19 to section ~~11(m)~~ 11(J) shall be punishable by a fine of not
20 more than \$500.00 or imprisonment for not more than 90 days, or
21 both.

22 (2) Consistent with ~~Act No. 58 of the Public Acts of 1945,~~
23 ~~being section 46.201 of the Michigan Compiled Laws~~ 1945 PA 58,
24 MCL 46.201, the county board of commissioners may adopt an ordi-
25 nance that designates a violation of the ordinance as a civil
26 infraction and provides a civil fine for that violation.

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1 (3) The county board of commissioners may adopt an ordinance
2 that designates a violation of the ordinance as a municipal civil
3 infraction and provides a civil fine for that violation. An
4 ordinance may not designate a violation as a municipal civil
5 infraction if that violation may be designated as a civil infrac-
6 tion under subsection (2). A statute may provide that a viola-
7 tion of a specific type of ordinance is a municipal civil infrac-
8 tion whether or not the ordinance designates the violation as a
9 municipal civil infraction.

10 (4) An ordinance shall not make an act or omission a munici-
11 pal civil infraction if that act or omission constitutes a crime
12 under any of the following:

13 (a) Article 7 or section 17766a of the public health code,
14 ~~Act No. 368 of the Public Acts of 1978, being sections 333.7101~~
15 ~~to 333.7545 and 333.17766a of the Michigan Compiled Laws 1978 PA~~
16 ~~368, MCL 333.7101 TO 333.7545 AND 333.17766A.~~

17 (b) The Michigan penal code, ~~Act No. 328 of the Public Acts~~
18 ~~of 1931, being sections 750.1 to 750.568 of the Michigan Compiled~~
19 ~~Laws 1931 PA 328, MCL 750.1 TO 750.568.~~

20 (c) The Michigan vehicle code, ~~Act No. 300 of the Public~~
21 ~~Acts of 1949, being sections 257.1 to 257.923 of the Michigan~~
22 ~~Compiled Laws 1949 PA 300, MCL 257.1 TO 257.923.~~

23 (d) The Michigan liquor control act, ~~Act No. 8 of the~~
24 ~~Public Acts of the Extra Session of 1933, being sections 436.1 to~~
25 ~~436.58 of the Michigan Compiled Laws 1933 (EX SESS) PA 8, MCL~~
26 ~~436.1 TO 436.58.~~

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1 (e) Part 801 ~~(marine safety)~~ of the natural resources and
2 environmental protection act, ~~Act No. 451 of the Public Acts of~~
3 ~~1994, being sections 324.80101 to 324.80199 of the Michigan~~
4 ~~Compiled Laws~~ 1994 PA 451, MCL 324.80101 TO 324.80199.

5 (f) The aeronautics code of the state of Michigan, ~~Act~~
6 ~~No. 327 of the Public Acts of 1945, being sections 259.1 to~~
7 ~~259.208 of the Michigan Compiled Laws~~ 1945 PA 327, MCL 259.1 TO
8 259.208.

9 (g) Part 821 ~~(snowmobiles)~~ of ~~Act No. 451 of the Public~~
10 ~~Acts of 1994, being sections 324.82101 to 324.82159 of the~~
11 ~~Michigan Compiled Laws~~ THE NATURAL RESOURCES AND ENVIRONMENTAL
12 PROTECTION ACT, 1994 PA 451, MCL 324.82101 TO 324.82159.

13 (h) Part 811 ~~(off-road recreation vehicles)~~ of ~~Act~~
14 ~~No. 451 of the Public Acts of 1994, being sections 324.81101 to~~
15 ~~324.81150 of the Michigan Compiled Laws~~ THE NATURAL RESOURCES
16 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.81101 TO
17 324.81150.

18 (i) Sections 351 to 365 of the railroad code of 1993, ~~Act~~
19 ~~No. 354 of the Public Acts of 1993, being sections 462.351 to~~
20 ~~462.365 of the Michigan Compiled Laws~~ 1993 PA 354, MCL 462.351
21 TO 462.365.

22 (j) ~~Any~~ A law of this state under which the act or omis-
23 sion is punishable by imprisonment for more than 90 days.

24 Sec. 11. A county board of commissioners, at a lawfully
25 held meeting, may do 1 or more of the following:

26 ~~(a) Purchase, for the use of the county, real estate~~
27 ~~necessary for the erection of buildings for the support of the~~

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1 ~~poor of that county and for a farm to be used in connection with~~
2 ~~that support.~~

3 (A) ~~(b)~~ Purchase or lease, for a term not to exceed 20
4 years, real estate necessary for the site of a courthouse, jail,
5 clerk's office, or other county building in that county.

6 (B) ~~(c)~~ Determine the site of, REMOVE, OR DESIGNATE A NEW
7 SITE FOR a county building. THE EXERCISE OF THE AUTHORITY
8 GRANTED BY THIS SUBDIVISION IS SUBJECT TO ANY REQUIREMENT OF LAW
9 THAT THE BUILDING BE LOCATED AT THE COUNTY SEAT.

10 (C) ~~(d)~~ Authorize the sale or lease of real estate belong-
11 ing to the county, and prescribe the manner in which a conveyance
12 of the real estate is to be executed.

13 ~~(e) Remove or designate a new site for a county building~~
14 ~~required to be at the county seat, if the new site is not outside~~
15 ~~the limits of the village or city in which the county seat is~~
16 ~~situated, and remove or designate a new site for a county infir-~~
17 ~~mary or medical care facility.~~

18 (D) ~~(f)~~ Erect the necessary buildings for jails, clerks'
19 offices, and other county buildings, and prescribe the time and
20 manner of erecting them.

21 (E) ~~(g)~~ Borrow or raise by tax upon the county those funds
22 authorized by law. THE EXERCISE OF THE AUTHORITY GRANTED BY THIS
23 SUBDIVISION IS SUBJECT TO ANY VOTING REQUIREMENT PROVIDED BY THE
24 LAW AUTHORIZING THE BORROWING OR TAX IF DIFFERENT FROM THE VOTING
25 REQUIREMENT UNDER SECTION 3.

26 (F) ~~(h)~~ Provide for the repayment of a loan made by the
27 board, by tax upon the county. The loan shall be repaid within

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1 15 years after the date of the loan, except that a loan to erect
2 a county building for a public function shall be repaid within 30
3 years after the date of the loan.

4 (G) ~~(i)~~ Prescribe and fix the salaries and compensation of
5 employees of the county if not fixed by law and, except in a
6 county having a board of county auditors, adjust claims against
7 the county. The sum allowed in the adjustment of a claim is
8 subject to appeal as provided by law.

9 (H) ~~(j)~~ Direct and provide for the raising of money neces-
10 sary to defray the current expenses and charges of the county and
11 the necessary charges incident to or arising from the execution
12 of the board's lawful authority, subject to the limitations pre-
13 scribed in this act. The county board of commissioners may
14 borrow in a year, in anticipation of the levy or collection of
15 taxes for the year, a sum of money, not exceeding 50% of the tax
16 to be levied or collected for the general fund of the county,
17 necessary to defray current expenses of the county. The money
18 borrowed shall be repaid from the tax when levied and collected.

19 ~~(k) Abolish or revive the distinctions between township and~~
20 ~~county poor.~~

21 (I) ~~(l)~~ Authorize the making of a new tax roll.

22 (J) ~~(m)~~ By majority vote of the members of the county
23 board of commissioners elected and serving, pass ordinances that
24 relate to county affairs and do not contravene the general laws
25 of this state or interfere with the local affairs of a township,
26 city, or village within the limits of the county, and pursuant to
27 section 10b provide suitable sanctions for the violation of those

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1 ordinances. The board may change the limits of a city, village,
2 or school district within the county as provided by law. If
3 there is not a general law governing the subject, or if a change
4 cannot be made pursuant to a general law, the board may change
5 the limits of the village upon petition of at least 10% of the
6 resident taxpayers. An ordinance or act of incorporation pro-
7 vided in this subdivision shall take effect when notice of the
8 adoption is published in a newspaper of general circulation in
9 the county. The clerk of the county board of commissioners shall
10 engross each ordinance or act, and it shall be signed by the
11 chairperson of the county board of commissioners and certified by
12 the clerk of the county board of commissioners. If, within 50
13 days after the county board of commissioners adopts an ordinance
14 or act, a petition signed by not less than 20% of the electors
15 residing in the district to be affected by the ordinance or act
16 is filed with the county clerk asking that the ordinance or act
17 be submitted to electors of the district to be affected by the
18 ordinance or act for approval or rejection, then the ordinance or
19 act shall not take effect until it is approved by a majority of
20 the electors of the district affected voting on that issue at a
21 regular or special election called for that purpose. The county
22 board of commissioners shall provide the manner of submitting the
23 ordinance or act to the electors for their approval and of deter-
24 mining the result of the election.

25 (K) ~~(n)~~ Require a county officer whose salary or compensa-
26 tion is paid by the county to make a report under oath to the
27 county board of commissioners on any subject connected with the

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1 duties of that office and require the officer to give a bond
2 reasonable or necessary for the faithful performance of the
3 duties of the office. An officer who neglects or refuses either
4 to make a report or give a bond within a reasonable time after
5 being required to do so may be removed from office by the board
6 by a vote of 2/3 of the members elected or appointed, and the
7 office declared vacant. The board may fill the vacancy for the
8 unexpired portion of the term for which the officer was elected
9 or appointed. If an election occurs before the expiration of the
10 unexpired term, and if the office is elective, the vacancy shall
11 be filled at that election. The board shall give reasonable
12 notice of the election to fill the vacancy.

13 ~~(o) Authorize a township in the county, by a vote of the~~
14 ~~electors of the township, to borrow or raise by tax upon the~~
15 ~~township money to build or repair roads or bridges in the town-~~
16 ~~ship, or in the use of which the township is interested, and to~~
17 ~~prescribe the time for the repayment of a loan, which shall be~~
18 ~~within 15 years, and for assessing the principal and interest on~~
19 ~~the loan upon the township. If a road or bridge is situated~~
20 ~~partly in 1 township and partly in another, or on the line~~
21 ~~between townships, or if a township has a particular local inter-~~
22 ~~est in the construction or repair of a bridge, the county board~~
23 ~~of commissioners may determine, under the regulations the board~~
24 ~~establishes, the proportion that a township shall contribute to~~
25 ~~the building and repairing of the road or bridge. The amount~~
26 ~~apportioned to the township shall be assessed and collected in~~

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1 ~~the same manner as other township taxes are assessed and~~
2 ~~collected by law.~~

3 (1) ~~(p)~~ Represent the county and have the care and manage-
4 ment of the property and business of the county if other provi-
5 sions are not made.

6 (M) ~~(q)~~ Establish rules and regulations in reference to
7 the management of the interest and business concerns of the
8 county as the board considers necessary and proper in all matters
9 not especially provided for in this act or under the laws of this
10 state. The county board of commissioners shall not audit or
11 allow a claim, including a bill or charge, against the county
12 unless the claim has been filed with the county clerk of the
13 county before the fourth day of a regular meeting of the board,
14 or before the second day of an adjourned or other meeting, the
15 claim is contracted by the board during the session of the board
16 or the claim is for mileage and per diem of the members of the
17 board. The county clerk shall keep a book of all claims in the
18 order in which the claims are presented, giving the name of each
19 claimant and the amount and date of presentation of each claim.
20 The book, after the time prescribed for the presentation of
21 claims, shall be delivered to the chairperson for the use of the
22 board. At the October session, the board, by a vote of 2/3 of
23 the members, may receive and allow accounts that have wholly
24 accrued during the session.

25 (N) ~~(r)~~ Subject to subdivision ~~(s)~~ (O), remove an offi-
26 cer or agent appointed by the board if, in the board's opinion,
27 the officer or agent is incompetent to execute properly the

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1 duties of the office or if, on charges and evidence, the board is
2 satisfied that the officer or agent is guilty of official miscon-
3 duct, or habitual or willful neglect of duty, and if the miscon-
4 duct or neglect is a sufficient cause for removal. However, an
5 officer or agent shall not be removed for that misconduct or
6 neglect unless charges of misconduct or neglect are preferred to
7 the county board of commissioners or the chairperson of the
8 county board of commissioners, notice of the hearing, with a copy
9 of the charges, is delivered to the officer or agent, and a full
10 opportunity is given the officer or agent to be heard, either in
11 person or by counsel.

12 (0) ~~(s)~~ If the county has an appointed county manager or
13 other appointed chief administrative officer or a county control-
14 ler, the county board of commissioners may enter into an employ-
15 ment contract with that officer. The term of the employment con-
16 tract may extend beyond the terms of the members of the county
17 board of commissioners. The term of the employment contract
18 shall be 3 years or less, unless the employment contract is
19 entered into on or after August 1 of an even-numbered year, in
20 which case the term of the employment contract shall be 1 year or
21 less. However, in a county organized under ~~Act No. 293 of the~~
22 ~~Public Acts of 1966, being sections 45.501 to 45.521 of the~~
23 ~~Michigan Compiled Laws~~ 1966 PA 293, MCL 45.501 TO 45.521, with
24 an appointed chief administrative officer, an employment contract
25 with the appointed chief administrative officer shall be for the
26 term provided by section 11a of ~~Act No. 293 of the Public Acts~~
27 ~~of 1966, being section 45.511a of the Michigan Compiled Laws~~

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1 1966 PA 293, MCL 45.511A. An employment contract under this
2 subdivision shall be in writing and shall specify the compensa-
3 tion to be paid to the officer, any procedure for changing the
4 compensation, any fringe benefits, and any other conditions of
5 employment. If the officer serves at the pleasure of the county
6 board of commissioners, the contract shall so state and may pro-
7 vide for severance pay or other benefits in the event the employ-
8 ment of the officer is terminated at the pleasure of the county
9 board of commissioners.

10 (P) ~~(t)~~ Establish rules consistent with the open meetings
11 act, ~~Act No. 267 of the Public Acts of 1976, being sections~~
12 ~~15.261 to 15.275 of the Michigan Compiled Laws~~ 1976 PA 267, MCL
13 15.261 TO 15.275, for the manner of proceeding before the board.

14 (Q) ~~(u)~~ Acquire by exchange land needed for county pur-
15 poses, including the purchase of land to be used in exchange for
16 other land of approximate equal value owned by the federal gov-
17 ernment and needed for county purposes.

18 Enacting section 1. Section 12 of 1851 PA 156, MCL 46.12,
19 is repealed.