HOUSE BILL No. 4920

September 8, 2011, Introduced by Reps. Scott and Byrum and referred to the Committee on Judiciary.

A bill to amend 1909 PA 279, entitled

"The home rule city act,"

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HOUSE BILL No. 4920

by amending sections 3 and 4i (MCL 117.3 and 117.4i), section 3 as amended by 2004 PA 541 and section 4i as amended by 1999 PA 55.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- Sec. 3. Each city charter shall provide for all of the following:
- (a) The election of a mayor, who shall be the chief executive officer of the city, and of a body vested with legislative power,
- 5 and for the election or appointment of a clerk, a treasurer, an
 - assessor or board of assessors, a board of review, and other
- 7 officers considered necessary. The city charter may provide for the
 - selection of the mayor by the legislative body. Elections may be by

- 1 a partisan, nonpartisan, or preferential ballot, or by any other
- 2 legal method of voting. Notwithstanding another law or charter
- 3 provision to the contrary, a city having a 1970 official population
- 4 of more than 150,000, whose charter provides for terms of office of
- 5 less than 4 years, and in which the term of office for the mayor
- 6 and the governing body are of the same length, may provide by
- 7 ordinance for a term of office of up to 4 years for mayor and other
- 8 elected city officials. The ordinance shall provide that the
- 9 ordinance shall take effect 60 days after it is enacted unless
- 10 within the 60 days a petition is submitted to the city clerk signed
- 11 by not less than 10% of the registered electors of the city
- 12 requesting that the question of approval of the ordinance be
- 13 submitted to the electors at the next regular election or a special
- 14 election called for the purpose of approving or disapproving the
- 15 ordinance.
- 16 (b) The nomination of elective officers by partisan or
- 17 nonpartisan primary, by petition, or by convention.
- 18 (c) The time, manner, and means of holding elections and the
- 19 registration of electors, subject to section 26 and other
- 20 applicable requirements of law.
- 21 (d) The qualifications, duties, and compensation of the city's
- 22 officers. If the city has an appointed chief administrative
- 23 officer, the legislative body of the city may enter into an
- 24 employment contract with the chief administrative officer extending
- 25 beyond the terms of the members of the legislative body unless the
- 26 employment contract is prohibited by the city charter. An
- 27 employment contract with a chief administrative officer shall be in

- 1 writing and shall specify the compensation to be paid to the chief
- 2 administrative officer, any procedure for changing the
- 3 compensation, any fringe benefits, and other conditions of
- 4 employment. The contract shall state if the chief administrative
- 5 officer serves at the pleasure of the legislative body, and the
- 6 contract may provide for severance pay or other benefits in the
- 7 event the chief administrative officer's employment is terminated
- 8 at the pleasure of the legislative body.
- 9 (e) The establishment of 1 or more wards, and if the members
- 10 of the city's legislative body are chosen by wards, for equal
- 11 representation for each ward in the legislative body.
- 12 (f) That the subjects of taxation for municipal purposes are
- 13 the same as for state, county, and school purposes under the
- 14 general law.
- 15 (q) The annual laying and collecting taxes in a sum, except as
- 16 otherwise provided by law, not to exceed 2% of the taxable value of
- 17 the real and personal property in the city. Unless the charter
- 18 provides for a different tax rate limitation, the governing body of
- 19 a city may levy and collect taxes for municipal purposes in a sum
- 20 not to exceed 1% of the taxable value of the real and personal
- 21 property in the city. As used in this subdivision, "taxable value"
- 22 is that value determined under section 27a of the general property
- 23 tax act, 1893 PA 206, MCL 211.27a.
- 24 (h) An annual appropriation of money for municipal purposes.
- 25 (i) The levy, collection, and return of state, county, and
- 26 school taxes in conformance with the general laws of this state,
- 27 except that the preparation of the assessment roll, the meeting of

- 1 the board of review, and the confirmation of the assessment roll
- 2 may be at the times provided in the city charter.
- 3 (j) The public peace and health and for the safety of persons
- 4 and property. In providing for the public peace, health, and
- 5 safety, a city may expend funds or enter into contracts with a
- 6 private organization, the federal or state government, a county,
- 7 village, or township, or another city for services considered
- 8 necessary by the legislative body. Public peace, health, and safety
- 9 services may include the operation of child guidance and community
- 10 mental health clinics, the prevention, counseling, and treatment of
- 11 developmental disabilities, the prevention of drug abuse, and the
- 12 counseling and treatment of drug abusers.
- 13 (k) Adopting, continuing, amending, and repealing the city
- 14 ordinances and for the publication of each ordinance before it
- 15 becomes operative. Whether or not provided in its charter, instead
- 16 of publishing a true copy of an ordinance before it becomes
- 17 operative, the city may publish a summary of the ordinance. If the
- 18 city publishes a summary of the ordinance, the city shall include
- 19 in the publication the designation of a location in the city where
- 20 a true copy of the ordinance can be inspected or obtained. A
- 21 charter provision to the contrary notwithstanding, a city may adopt
- 22 an ordinance punishable by imprisonment for not more than 93 days
- 23 or a fine of not more than \$500.00, or both, if the violation
- 24 substantially corresponds to a violation of state law that is a
- 25 misdemeanor for which the maximum period of imprisonment is 93
- 26 days. Whether or not provided in its charter, a city may adopt a
- 27 provision of a state statute for which the maximum period of

- 1 imprisonment is 93 days or the Michigan vehicle code, 1949 PA 300,
- 2 MCL 257.1 to 257.923. Except as otherwise provided under the
- 3 Stille-DeRossett-Hale single state construction code act, 1972 PA
- 4 230, MCL 125.1501 to 125.1531, a city may adopt a law, code, or
- 5 rule that has been promulgated and adopted by an authorized agency
- 6 of this state pertaining to fire, fire hazards, fire prevention, or
- 7 fire waste, and a fire prevention code, plumbing code, heating
- 8 code, electrical code, building code, refrigeration machinery code,
- 9 piping code, boiler code, boiler operation code, elevator machinery
- 10 code, an international property maintenance code, or a code
- 11 pertaining to flammable liquids and gases or hazardous chemicals,
- 12 that has been promulgated or adopted by this state, by a
- 13 department, board, or other agency of this state, or by an
- 14 organization or association that is organized and conducted for the
- 15 purpose of developing the code, by reference to the law, code, or
- 16 rule in an adopting ordinance and without publishing the law, code,
- 17 or rule in full. The law, code, or rule shall be clearly identified
- 18 in the ordinance and its purpose shall be published with the
- 19 adopting ordinance. Printed copies of the law, code, or rule shall
- 20 be kept in the office of the city clerk, available for inspection
- 21 by, and distribution to, the public at all times. The publication
- 22 shall contain a notice stating that a complete copy of the law,
- 23 code, or rule is made available to the public at the office of the
- 24 city clerk in compliance with state law requiring that records of
- 25 public bodies be made available to the general public. A EXCEPT AS
- 26 OTHERWISE PROVIDED IN THIS SUBDIVISION, A city shall not enforce a
- 27 provision adopted by reference for which the maximum period of

- 1 imprisonment is greater than 93 days. A CITY MAY ADOPT SECTION
- 2 625(1)(C) OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.625,
- 3 BY REFERENCE IN AN ADOPTING ORDINANCE AND SHALL PROVIDE THAT A
- 4 VIOLATION OF THAT ORDINANCE IS PUNISHABLE BY 1 OR MORE OF THE
- 5 FOLLOWING:
- 6 (i) COMMUNITY SERVICE FOR NOT MORE THAN 360 HOURS.
- 7 (ii) IMPRISONMENT FOR NOT MORE THAN 180 DAYS.
- 8 (iii) A FINE OF NOT LESS THAN \$200.00 OR MORE THAN \$700.00.
- 9 (1) That the business of the legislative body shall be
- 10 conducted at a public meeting held in compliance with the open
- 11 meetings act, 1976 PA 267, MCL 15.261 to 15.275. All records of the
- 12 municipality shall be made available to the general public in
- 13 compliance with the freedom of information act, 1976 PA 442, MCL
- **14** 15.231 to 15.246.
- 15 (m) Keeping in the English language a written or printed
- 16 journal of each session of the legislative body.
- 17 (n) A system of accounts that conforms to a uniform system of
- 18 accounts as required by law.
- 19 Sec. 4i. Each city may provide in its charter for 1 or more of
- 20 the following:
- (a) Laying and collecting rents, tolls, and excises.
- 22 (b) Regulating and restricting the locations of oil and
- 23 gasoline stations.
- 24 (c) The establishment of districts or zones within which the
- 25 use of land and structures, the height, area, size, and location of
- 26 buildings, the required open spaces for light and ventilation of
- 27 buildings, and the density of population may be regulated by

- 1 ordinance. The zoning ordinance provisions applicable to 1 or more
- 2 districts may differ from those applicable to other districts. If a
- 3 city is incorporated, or if territory is annexed to a city
- 4 incorporated under this act, the zoning ordinance provisions
- 5 applicable to the territory within the newly incorporated city or
- 6 the annexed territory shall remain in effect for 2 years after the
- 7 incorporation or annexation unless the legislative body of the city
- 8 lawfully adopts other zoning ordinance provisions.
- 9 (d) The regulation of trades, occupations, and amusements
- 10 within city boundaries, if the regulations are not inconsistent
- 11 with state or federal law, and the prohibition of trades,
- 12 occupations, and amusements that are detrimental to the health,
- 13 morals, or welfare of the inhabitants of that city.
- 14 (e) The regulation or prohibition of public nudity within city
- 15 boundaries. As used in this subdivision, "public nudity" means
- 16 knowingly or intentionally displaying in a public place, or for
- 17 payment or promise of payment by any person including, but not
- 18 limited to, payment or promise of payment of an admission fee, any
- 19 individual's genitals or anus with less than a fully opaque
- 20 covering or a female individual's breast with less than a fully
- 21 opaque covering of the nipple and areola. Public nudity does not
- 22 include any of the following:
- 23 (i) A woman's breastfeeding of a baby whether or not the nipple
- 24 or areola is exposed during or incidental to the feeding.
- 25 (ii) Material as defined in section 2 of 1984 PA 343, MCL
- **26** 752.362.
- 27 (iii) Sexually explicit visual material as defined in section 3

- 1 of 1978 PA 33, MCL 722.673.
- 2 (f) Licensing, regulating, restricting, and limiting the
- 3 number and locations of billboards within the city.
- 4 (q) The initiative and referendum on all matters within the
- 5 scope of the powers of that city and the recall of city officials.
- 6 (h) A system of civil service for city employees, including
- 7 employees of that city's board of health, and employees of any jail
- 8 operated or maintained by the city. Charter provisions providing
- 9 for a system of civil service for employees of a local health board
- 10 are valid and effective.
- 11 (i) A system of compensation for city employees and the
- 12 dependents of city employees in the case of disability, injury, or
- 13 death of city employees.
- 14 (j) The enforcement of police, sanitary, and other ordinances
- 15 that are not in conflict with the general laws.
- 16 (k) The punishment of persons who violate city ordinances
- 17 other than ordinances described in section 4l. The penalty for a
- 18 violation of such a city ordinance shall not exceed a fine of
- 19 \$500.00 or imprisonment for 90 days, or both. However, unless
- 20 otherwise provided by law, the ordinance may provide that a
- 21 violation of the ordinance is punishable by imprisonment for not
- 22 more than 93 days or a fine of not more than \$500.00, or both, if
- 23 the violation substantially corresponds to a violation of state law
- 24 that is a misdemeanor for which the maximum period of imprisonment
- 25 is 93 days. IN ADDITION, A CITY MAY ADOPT SECTION 625(1)(C) OF THE
- 26 MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.625, BY REFERENCE IN AN
- 27 ADOPTING ORDINANCE AND SHALL PROVIDE THAT A VIOLATION OF THAT

- 1 ORDINANCE IS PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:
- 2 (i) COMMUNITY SERVICE FOR NOT MORE THAN 360 HOURS.
- 3 (ii) IMPRISONMENT FOR NOT MORE THAN 180 DAYS.
- 4 (iii) A FINE OF NOT LESS THAN \$200.00 OR MORE THAN \$700.00.