

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," 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:

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 executive
4 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
6 assessor or board of assessors, a board of review, and other
7 officers considered necessary. The city charter may provide for the
8 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 (g) 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 (l) 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:

21 (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 (g) 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 4/. 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.