

# HOUSE BILL NO. 5273

August 18, 2021, Introduced by Rep. Hertel and referred to the Committee on Elections and Ethics.

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 11a and 14 (MCL 45.511a and 45.514), section 11a as added by 1980 PA 7 and section 14 as amended by 2017 PA 210, and by adding section 14b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 11a. (1) In a county with a population of 1,500,000 or  
2 more the commission shall approve alternative charter proposals for  
3 simultaneous submission to the electors ~~pursuant to~~**under** the  
4 provisions of this section.

5           (2) The commission shall approve for submission 2 alternative  
6 charter proposals not more than 180 days after the date of  
7 completing its organization as provided in section 10. If the  
8 commission fails to approve for submission 2 charter proposals  
9 within the 180-day period, the charter commission ~~shall be~~**is**  
10 dissolved.

11           (3) Before either proposed charter is submitted to the  
12 electors, each proposed charter ~~shall~~**must** be approved by a  
13 majority of the members elected to the commission with the vote and  
14 names of the members voting on each proposed charter entered in the  
15 journal.

16           (4) Except as to the method of selection of a chief  
17 administrative officer or an elected county executive; the veto  
18 power of the chief administrative officer or the elected county  
19 executive; and the removal of the chief administrative officer or  
20 the elected county executive, the 2 alternative charter proposals  
21 ~~shall~~**must** not differ.

22           (5) One charter proposal ~~shall~~**must** provide for a county  
23 executive elected at large on a partisan **or nonpartisan** basis.

24           (6) One charter proposal ~~shall~~**must** provide for a chief  
25 administrative officer. The chief administrative officer shall be  
26 selected for a 4-year term of office by a majority of the county  
27 board of commissioners elected and serving, **and** the chief  
28 administrative officer may only be removed from office for cause by

1 a 2/3 vote of the county board of commissioners elected and  
2 serving.

3 (7) A charter ~~shall~~**must** be declared adopted by the electors  
4 if it receives more yes votes than no votes. If both charters  
5 receive more yes votes than no votes, the charter ~~which~~**that**  
6 receives the higher number of yes votes ~~shall~~**must** be declared  
7 adopted. An elector may vote yes or no on either, or both, of the  
8 charters.

9 (8) One charter proposal ~~shall~~**must** provide for the duties and  
10 responsibilities of the elected county executive. The other charter  
11 proposal ~~shall~~**must** provide for the duties and responsibilities of  
12 the chief administrative officer. Under each charter proposal, the  
13 duties and responsibilities of the elected county executive or  
14 chief administrative officer ~~shall~~**must** not differ, except as  
15 provided in subsection (4), and at a minimum, ~~shall~~**must** include  
16 the duty and responsibility to:

17 (a) Supervise, direct, and control the functions of all  
18 departments of the county except those headed by elected officials.

19 (b) Coordinate the various activities of the county and unify  
20 the management of its affairs.

21 (c) Enforce all orders, rules, and ordinances of the county  
22 board of commissioners and laws of ~~the~~**this** state required to be  
23 enforced by his or her office.

24 (d) Prepare and submit to the county board of commissioners a  
25 recommended annual county budget and work program, and administer  
26 the expenditure of funds in accordance with appropriations. An  
27 elected officer, county road commissioner, or a body ~~which~~**that** has  
28 the powers of a county road commission may appear before the board  
29 as to the officer's, commissioner's, or body's own budget. Not less

1 than once each year the chief administrative officer or elected  
2 county executive shall submit to the county board of commissioners  
3 a proposed long-range capital improvement program and capital  
4 budget.

5 (e) Except elected officials, appoint, supervise, and at  
6 pleasure remove heads of departments and all boards and  
7 commissions.

8 (f) Submit recommendations to the board for the efficient  
9 conduct of county business.

10 (g) Report to the county board of commissioners on the affairs  
11 of the county and its needs, and advise the board not less than  
12 once ~~each~~**every** 3 months on the financial condition of the county.

13 (9) The elected county executive may veto an ordinance or  
14 resolution adopted by the county board of commissioners including  
15 an item of an ordinance ~~which~~**that** appropriates funds. The veto  
16 ~~shall~~**must** be certified by the elected county executive to the  
17 board of county commissioners not more than 10 days from the date  
18 of adoption of an ordinance or resolution. The county board of  
19 commissioners may override the veto by a 2/3 vote of the county  
20 board of commissioners elected and serving.

21 (10) The ballot ~~shall~~**must** contain voting instructions and a  
22 brief explanation of each charter presented.

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

25 (a) ~~In~~**Subject to section 14b, in** a county that has a  
26 population of less than 1,500,000, for a salaried county executive,  
27 who ~~shall be~~**is** elected at large on a partisan **or nonpartisan**  
28 basis, and for the county executive's authority, duties, and  
29 responsibilities. ~~In~~**Subject to section 14b, in** a county that has a

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

4 (b) The election of a legislative body to be known as the  
5 county board of commissioners, whose term of office must be  
6 concurrent with that of state representatives, and for their  
7 authority, duties, responsibilities, and number, which must be not  
8 less than 5 or more than 21. The county board of commissioners  
9 shall provide by ordinance for their compensation and may increase  
10 or decrease their compensation. A change in compensation is not  
11 effective during the term of office for which the legislative body  
12 making the change was elected. The charter must also provide for  
13 the partisan election of members of the legislative body from  
14 single-member districts to be established by the county  
15 apportionment commission as created in section 5 and under the  
16 standards and guidelines established in section 5 for  
17 reapportionment based on the last official federal decennial  
18 census, effective at the first regular general election of the  
19 members of the legislative body occurring not less than 12 months  
20 after the completion and certification of the federal census. Each  
21 city and township must be apportioned so that it has the largest  
22 possible number of complete districts within its boundaries before  
23 any part of the city or township is joined to territory outside the  
24 boundaries of the city or township to form a district.

25 (c) The partisan election of a sheriff, a prosecuting  
26 attorney, a county clerk, a county treasurer, and a register of  
27 deeds, and for the authority of the county board of commissioners  
28 to combine the county clerk and register of deeds into 1 office as  
29 authorized by law.

1           (d) Except as provided in subdivision (c), the continuation of  
2 all existing county offices, boards, commissions, and departments  
3 whether established by law or by action of the county board of  
4 commissioners; the performance of their respective duties by other  
5 county offices, boards, commissions, and departments; or the  
6 discontinuance of these county offices, boards, commissions, and  
7 departments. Notwithstanding this subdivision in relation to  
8 existing county offices, boards, commissions, and departments, a  
9 county charter must insure the following:

10           (i) Except as otherwise provided under subsection (2), in a  
11 county that has a population of less than 1,500,000, the charter  
12 must not be in derogation of the powers and duties of the county  
13 road commission in the exercise of its statutory duties concerning  
14 the preservation of a county road system. The charter for these  
15 counties must provide for the creation of a commission that  
16 consists of not fewer than 3 or more than 5 members. Not less than  
17 1 member of the commission must be a resident of a township within  
18 the county.

19           (ii) Except as otherwise provided in subsection (2), in a  
20 county that has a population of 1,500,000 or more, the charter must  
21 provide for the continuation of a county road system within the  
22 county. Notwithstanding any other provisions of this act, the  
23 charter described in this subparagraph must provide that  
24 responsibility for the determination of the expenditure of all  
25 funds for road construction and road maintenance and for carrying  
26 out the powers and duties pertaining to a county road system as  
27 provided in sections 9 to 32 of chapter IV of 1909 PA 283, MCL  
28 224.9 to 224.32, is vested in a commission that consists of not  
29 fewer than 3 or more than 5 members. The charter must provide that

1 1 member of the commission is a resident of the most populous city  
2 in the county, 1 member is a resident of a city other than the most  
3 populous city within the county, and 1 member is a resident of a  
4 township within the county. The charter must provide that the  
5 commission is appointed by either the elected county executive or  
6 the chief administrative officer. Appointment to the commission  
7 must require advice and consent by a majority of the county board  
8 of commissioners elected and serving not more than 60 days after  
9 the appointment. If the county board of commissioners does not vote  
10 on the appointment within 60 days, the appointment is final. The  
11 charter may provide for the number of members and a fixed term of  
12 years for the members of the commission, but the charter must  
13 provide that the members of the commission may be removed at the  
14 pleasure of the elected county executive or the chief  
15 administrative officer. The charter must specify duties and  
16 procedures to assure that administrative decisions made for road  
17 construction are coordinated with administrative decisions made for  
18 other programs ~~which~~**that** relate to roads. As used in this  
19 subparagraph, "road construction" means all of the following:

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

23 (B) The building of bridges or grade separations and the  
24 repair of these structures by strengthening, widening, and the  
25 replacement of piers and abutments.

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

29 (e) Subject to section 15c, the continuation and

1 implementation of a system of pensions and retirement for county  
2 officers and employees in those counties that have a system in  
3 effect at the time of the adoption of the charter. The system  
4 provided under the charter must recognize the accrued rights and  
5 benefits of the officers and employees under the system then in  
6 effect. The charter must not infringe on nor be in derogation of  
7 those accrued rights and benefits. Subject to section 15c, the  
8 charter must not preclude future modification of the system.

9 (f) The continuation and implementation of a system of civil  
10 service in those counties having a system at the time of the  
11 adoption of the charter. The system of civil service provided under  
12 the charter must recognize the rights and status of persons under  
13 the civil service system then in effect. The charter must not  
14 infringe on nor be in derogation of those rights and that status.  
15 The charter must not preclude future modification of the system.  
16 Except as provided in subdivision (d), the charter must provide  
17 that the system of civil service be coordinated among the county  
18 offices, boards, commissions, and departments.

19 (g) That the general statutes and local acts of this state  
20 regarding counties and county officers will continue in effect  
21 except to the extent that this act permits the charter to provide  
22 otherwise, if the charter does in fact provide otherwise.

23 (h) That all ordinances of the county will remain in effect  
24 unless changed by the charter or an ordinance adopted under the  
25 charter.

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

29 (j) The power and authority to enter into any



1 intergovernmental contract which is not specifically prohibited by  
2 law.

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

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

10 (m) The levy and collection of taxes, the fixing of an ad  
11 valorem property tax limitation of not to exceed 1% of the state  
12 equalized value of the taxable property within the county, and that  
13 the levy of taxes from within this ad valorem property tax  
14 limitation must not exceed, unless otherwise approved by the  
15 electors, the tax rate in mills, equal to the number of mills  
16 allocated to the county either by a county tax allocation board or  
17 by a separate tax limitation under the property tax limitation act,  
18 1933 PA 62, MCL 211.201 to 211.217a, in the year immediately  
19 preceding the year in which the county adopts a charter.

20 (n) Initiative and referendum on all matters within the scope  
21 of the county's power and authority; and for the recall of all  
22 county officials.

23 (o) Amendment or revision of the charter initiated either by  
24 action of the legislative body of the county or by initiatory  
25 process. An amendment or revision ~~must~~**does** not become effective  
26 unless the amendment or revision is submitted to the electorate of  
27 the county and approved by a majority of those voting.

28 (p) That the acquisition, operation, and sale of public  
29 utility facilities for furnishing light, heat, or power must be

1 subject to the same restrictions as imposed on cities and villages  
2 by the state constitution of 1963 and applicable law.

3 (q) Annual preparation, review, approval, and adherence to a  
4 balanced budget in a manner ~~which~~**that** assures coordination among  
5 the county offices, boards, commissions, and departments, except as  
6 provided in subdivision (d).

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

9 (s) That a county that incurs a budget deficit in any fiscal  
10 year shall prepare and submit a detailed and specific 5-year plan  
11 for short-term financial recovery and long-range financial  
12 stability to the governor and the legislature, before adoption of  
13 the next annual county budget, for review. The 5-year plan must  
14 include, but not be limited to, a projection of annual revenues and  
15 expenditures, an employee classification and pay plan, a capital  
16 improvements budget, and equipment replacement schedules.

17 (2) Subsection (1)(d) does not apply to a county in which the  
18 charter is amended to provide for an alternative method of carrying  
19 out the powers and duties ~~which~~**that** are otherwise provided by law  
20 for a board of county road commissioners.

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

25 **Sec. 14b. A county with an elected county executive under this**  
26 **act may amend or revise the county charter, as set forth under**  
27 **section 14(1)(o), to provide that the county executive be elected**  
28 **at large on a partisan or nonpartisan basis.**