



# SENATE BILL No. 736

August 31, 1993, Introduced by Senator CONROY and referred to the Committee on Judiciary.

A bill to amend sections 1a, 4i, 29, and 32 of Act No. 279 of the Public Acts of 1909, entitled as amended

"An act to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; and to repeal certain acts and parts of acts on specific dates,"

section 4i as amended by Act No. 175 of the Public Acts of 1991, being sections 117.1a, 117.4i, 117.29, and 117.32 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1a, 4i, 29, and 32 of Act No. 279 of  
2 the Public Acts of 1909, section 4i as amended by Act No. 175 of  
3 the Public Acts of 1991, being sections 117.1a, 117.4i, 117.29,  
4 and 117.32 of the Michigan Compiled Laws, are amended to read as  
5 follows:

1       Sec. 1a. As used in this act, ~~the phrase "having a~~  
 2 ~~population," or any phrase or combination of words of like~~  
 3 ~~import, shall be construed to mean "now or hereafter having a~~  
 4 ~~population of."~~ The words "last," "latest," "preceding" or "last  
 5 preceding" used in connection with a "federal" or "United States"  
 6 or other census, or any words, phrases or combinations of words  
 7 of like import, shall be construed to also include any such  
 8 census taken after the enactment of the statute. "CIVIL  
 9 INFRACTION" AND "MUNICIPAL CIVIL INFRACTION" MEAN THOSE TERMS AS  
 10 DEFINED IN SECTION 113 OF THE REVISED JUDICATURE ACT OF 1961, ACT  
 11 NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTION 600.113 OF THE  
 12 MICHIGAN COMPILED LAWS.

13       Sec. 4i. (1) Each city may in its charter provide:

14       (a) For laying and collecting rents, tolls, and excises.

15       (b) For regulating and restricting the locations of oil and  
 16 gasoline stations.

17       (c) For the establishment of districts or zones within which  
 18 the use of land and structures, the height, area, size, and loca-  
 19 tion of buildings, the required open spaces for light and venti-  
 20 lation of buildings, and the density of population, may be regu-  
 21 lated by ordinance. The zoning ~~ordinances in~~ ORDINANCE PROVI-  
 22 SIONS APPLICABLE TO 1 or more districts may differ from ~~the~~  
 23 ~~zoning ordinances in~~ THOSE APPLICABLE TO other districts. If a  
 24 city is incorporated, or if territory is annexed to a city incor-  
 25 porated under this act, the zoning ~~ordinances of~~ ORDINANCE PRO-  
 26 VISIONS APPLICABLE TO the territory within the newly incorporated  
 27 city or ~~of~~ the annexed territory shall remain in effect for 2

1 years after the incorporation or annexation unless the  
2 legislative body of the city lawfully adopts other zoning  
3 ~~ordinances~~ ORDINANCE PROVISIONS.

4 (d) For the regulation of trades, occupations, and amuse-  
5 ments within city boundaries, if the regulations are not incon-  
6 sistent with state or federal law, and for the prohibition of  
7 trades, occupations, and amusements that are detrimental to the  
8 health, morals, or welfare of the inhabitants of that city.

9 (e) For the regulation or prohibition of public nudity  
10 within city boundaries. As used in this subdivision, "public  
11 nudity" means knowingly or intentionally displaying in a public  
12 place, or for payment or promise of payment by any person includ-  
13 ing, but not limited to, payment or promise of payment of an  
14 admission fee, any individual's genitals or anus with less than a  
15 fully opaque covering.

16 (f) For licensing, regulating, restricting, and limiting the  
17 number and locations of billboards within the city.

18 (g) For the initiative and referendum on all matters within  
19 the scope of the powers of that city, and for the recall of city  
20 officials.

21 (h) For a system of civil service for city employees,  
22 including employees of that city's board of health, and employees  
23 of any jail operated or maintained by the city. Charter provi-  
24 sions ~~heretofore or hereafter adopted~~ providing for a system of  
25 civil service for employees of a local health board are valid and  
26 effective.

1 (i) For a system of compensation for city employees and the  
2 dependents of city employees in the case of disability, injury,  
3 or death of city employees.

4 (j) For the enforcement of police, sanitary, and other ordi-  
5 nances that are not in conflict with the general laws.

6 (k) For the punishment of persons who violate city  
7 ordinances. However, the penalty for a violation of a city ordi-  
8 nance shall not exceed a fine of \$500.00, or imprisonment for 90  
9 days, or both.

10 (2) WHETHER OR NOT AUTHORIZED BY THE CITY CHARTER, THE LEG-  
11 ISLATIVE BODY OF A CITY MAY MAKE A VIOLATION OF AN ORDINANCE A  
12 CIVIL INFRACTION. IF A VIOLATION OF AN ORDINANCE IS A CIVIL  
13 INFRACTION, THE ORDINANCE MAY PROVIDE A CIVIL FINE FOR ITS  
14 VIOLATION. A VIOLATION OF AN ORDINANCE IS A MUNICIPAL CIVIL  
15 INFRACTION ONLY IF THE ORDINANCE EXPLICITLY STATES THAT A VIOLA-  
16 TION IS A MUNICIPAL CIVIL INFRACTION. AN ORDINANCE SHALL NOT  
17 MAKE AN ACT OR OMISSION A MUNICIPAL CIVIL INFRACTION IF THAT ACT  
18 OR OMISSION CONSTITUTES A CRIME UNDER ANY OF THE FOLLOWING:

19 (A) ARTICLE 7 OR SECTION 17766A OF THE PUBLIC HEALTH CODE,  
20 ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.7101  
21 TO 333.7545 AND 333.17766A OF THE MICHIGAN COMPILED LAWS.

22 (B) THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS  
23 OF 1931, BEING SECTIONS 750.1 TO 750.568 OF THE MICHIGAN COMPILED  
24 LAWS.

25 (C) ACT NO. 158 OF THE PUBLIC ACTS OF 1966, BEING  
26 SECTIONS 752.11 TO 752.12 OF THE MICHIGAN COMPILED LAWS.

1 (D) SECTION 1 OF ACT NO. 70 OF THE PUBLIC ACTS OF 1877,  
2 BEING SECTION 752.21 OF THE MICHIGAN COMPILED LAWS.

3 (E) ACT NO. 119 OF THE PUBLIC ACTS OF 1967, BEING  
4 SECTIONS 752.271 TO 752.274 OF THE MICHIGAN COMPILED LAWS.

5 (F) SECTION 25 OF CHAPTER 158 OF THE REVISED STATUTES OF  
6 1846, BEING SECTION 752.525 OF THE MICHIGAN COMPILED LAWS.

7 (G) SECTION 2 OF ACT NO. 26 OF THE PUBLIC ACTS OF 1970,  
8 BEING SECTION 752.582 OF THE MICHIGAN COMPILED LAWS.

9 (H) SECTION 5 OF ACT NO. 105 OF THE PUBLIC ACTS OF 1951,  
10 BEING SECTION 752.825 OF THE MICHIGAN COMPILED LAWS.

11 (I) ACT NO. 10 OF THE PUBLIC ACTS OF 1952, BEING  
12 SECTIONS 752.841 TO 752.845 OF THE MICHIGAN COMPILED LAWS.

13 (J) SECTION 1 OF ACT NO. 45 OF THE PUBLIC ACTS OF 1952,  
14 BEING SECTION 752.861 OF THE MICHIGAN COMPILED LAWS.

15 (K) SECTION 1 OF ACT NO. 81 OF THE PUBLIC ACTS OF 1954,  
16 BEING SECTION 752.881 OF THE MICHIGAN COMPILED LAWS.

17 (L) SECTION 3A OF ACT NO. 106 OF THE PUBLIC ACTS OF 1963,  
18 BEING SECTION 752.903A OF THE MICHIGAN COMPILED LAWS.

19 Sec. 29. The district court, a municipal court, ~~the traf-~~  
20 ~~fic and ordinance division of the recorder's court of the city of~~  
21 ~~Detroit, the common pleas court,~~ or the circuit court, as pro-  
22 vided by law, may hear, try, and determine actions ~~and~~  
23 ~~prosecutions~~ for the recovery and enforcing of fines, penalties,  
24 and forfeitures imposed by the charter and ordinances of the  
25 city, and ~~punish~~ SANCTION offenders for the violation of the  
26 charter and ordinances, as is prescribed and directed in the  
27 charter or ordinances.

1       Sec. 32. (1) Except as provided in subsection (3), there  
2 may be elected or appointed in each city ~~at least 1 constable~~  
3 OR MORE CONSTABLES who shall have ~~like~~ THE SAME powers and  
4 authorities ~~in matters~~ in civil and criminal ~~nature~~ MATTERS,  
5 and in relation to the service of process, civil and criminal, as  
6 are conferred by law on constables in townships. A city, by  
7 ordinance, may abolish, restrict, and limit the authority con-  
8 ferred upon a constable by law, except that a city constable may  
9 be appointed by a district court as a district court officer and  
10 may perform duties permitted pursuant to chapter 83 of THE  
11 REVISED JUDICATURE ACT OF 1961, Act No. 236 of the Public Acts of  
12 1961, as amended, being sections 600.8301 to 600.8395 of the  
13 Michigan Compiled Laws. ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN SEC-  
14 TION 8707 OF ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SEC-  
15 TION 600.8707 OF THE MICHIGAN COMPILED LAWS, AND SECTION 742 OF  
16 THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF  
17 1949, BEING SECTION 257.742 OF THE MICHIGAN COMPILED LAWS, A con-  
18 stable shall serve all process issued for breaches of ordinances  
19 of the city. A city may by ordinance provide for the appointment  
20 of additional constables except that the maximum number of per-  
21 sons who may be appointed as constables shall not exceed the  
22 number of elected constables ~~now~~ provided for in the charter of  
23 the city ON SEPTEMBER 23, 1949. An appointed or elected consta-  
24 ble may be paid a salary in addition to fees.

25       (2) This section ~~shall~~ DOES not apply to ~~cities which~~  
26 ~~have~~ A CITY THAT HAS a population of 500,000 or more.

1       (3) A constable shall serve all warrants, notices, and  
2 process lawfully directed to the constable by the city and shall  
3 perform other duties required of a constable by law. A city, by  
4 ordinance, may restrict or limit the duties of a city constable  
5 prescribed by law. If the city requires the constable to perform  
6 both statutory criminal and civil duties, a person elected or  
7 appointed to the office of city constable shall fulfill the mini-  
8 mum employment standards established by the law enforcement  
9 ~~officers training~~ council pursuant to section 9 of THE MICHIGAN  
10 LAW ENFORCEMENT OFFICERS TRAINING COUNCIL ACT OF 1965, Act  
11 No. 203 of the Public Acts of 1965, as amended, being section  
12 28.609 of the Michigan Compiled Laws. The cost of complying with  
13 these standards shall be borne by the city.

14       Section 2. This amendatory act shall not take effect unless  
15 Senate Bill No. 731

16                       of the 87th Legislature is enacted into law.