

Act No. 201
Public Acts of 2002
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Senator Johnson

ENROLLED SENATE BILL No. 976

AN ACT to amend 1909 PA 279, entitled "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; to prescribe penalties and provide remedies; and to repeal acts and parts of acts on specific dates," by amending sections 3, 4a, 5, and 5f (MCL 117.3, 117.4a, 117.5, and 117.5f), section 3 as amended by 1999 PA 260, section 4a as amended by 1994 PA 324, section 5 as amended by 1988 PA 268, and section 5f as amended by 1990 PA 231.

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, and for the election or appointment of a clerk, a treasurer, an assessor or board of assessors, a board of review, and other officers considered necessary. The city charter may provide for the selection of the mayor by the legislative body. Elections may be by a partisan, nonpartisan, or preferential ballot, or by any other legal method of voting. Notwithstanding any other law or charter provision to the contrary, a city having a 1970 official population of more than 150,000, whose charter provides for terms of office of less than 4 years, and in which the term of office for the mayor and the governing body are of the same length, may provide by ordinance for a term of office of up to 4 years for mayor and other elected city officials. The ordinance shall provide that the ordinance shall take effect 60 days after it is enacted unless within the 60 days a petition is submitted to the city clerk signed by not less than 10% of the registered electors of the city requesting that the question of approval of the ordinance be submitted to the electors at the next regular election or a special election called for the purpose of approving or disapproving the ordinance.

(b) The nomination of elective officers by partisan or nonpartisan primary, by petition, or by convention.

(c) The time, manner, and means of holding elections and the registration of electors.

(d) The qualifications, duties, and compensation of the city's officers. If the city has an appointed chief administrative officer, the legislative body of the city may enter into an employment contract with the chief administrative officer extending beyond the terms of the members of the legislative body unless the employment contract is prohibited by the city charter. An employment contract with a chief administrative officer shall be in writing and shall specify the compensation to be paid to the chief administrative officer, any procedure for changing the compensation, any fringe benefits, and any other conditions of employment. The contract shall state if the chief administrative officer serves at the pleasure of the legislative body, and the contract may provide for severance pay or other benefits in the event the chief administrative officer's employment is terminated at the pleasure of the legislative body.

(e) The establishment of 1 or more wards, and if the members of the city's legislative body are chosen by wards, for equal representation for each ward in the legislative body.

(f) That the subjects of taxation for municipal purposes are the same as for state, county, and school purposes under the general law.

(g) The annual laying and collecting taxes in a sum, except as otherwise provided by law, not to exceed 2% of the taxable value of the real and personal property in the city. Unless the charter provides for a different tax rate limitation, the governing body of a city may levy and collect taxes for municipal purposes in a sum not to exceed 1% of the taxable value of the real and personal property in the city. As used in this subdivision, "taxable value" is that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(h) An annual appropriation of money for municipal purposes.

(i) The levy, collection, and return of state, county, and school taxes in conformance with the general laws of this state, except that the preparation of the assessment roll, the meeting of the board of review, and the confirmation of the assessment roll may be at the times provided in the city charter.

(j) The public peace and health and for the safety of persons and property. In providing for the public peace, health, and safety, a city may expend funds or enter into contracts with a private organization, the federal or state government, a county, village, or township, or another city for services considered necessary by the legislative body. Public peace, health, and safety services may include the operation of child guidance and community mental health clinics, the prevention, counseling, and treatment of developmental disabilities, the prevention of drug abuse, and the counseling and treatment of drug abusers.

(k) Adopting, continuing, amending, and repealing the city ordinances and for the publication of each ordinance before it becomes operative. Whether or not provided in its charter, instead of publishing a true copy of an ordinance before it becomes operative, the city may publish a summary of the ordinance. If the city publishes a summary of the ordinance, the city shall include in the publication the designation of a location in the city where a true copy of the ordinance can be inspected or obtained. Any charter provision to the contrary notwithstanding, a city may adopt an ordinance punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. Whether or not provided in its charter, a city may adopt a provision of any state statute for which the maximum period of imprisonment is 93 days, the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a law, code, or rule that has been promulgated and adopted by an authorized agency of this state pertaining to fire, fire hazards, fire prevention, or fire waste, and a fire prevention code, plumbing code, heating code, electrical code, building code, refrigeration machinery code, piping code, boiler code, boiler operation code, elevator machinery code, or a code pertaining to flammable liquids and gases or hazardous chemicals, that has been promulgated by this state, by a department, board, or other agency of this state, or by an organization or association that is organized and conducted for the purpose of developing the code, by reference to the law, code, or rule in an adopting ordinance and without publishing the law, code, or rule in full. The law, code, or rule shall be clearly identified in the ordinance and its purpose shall be published with the adopting ordinance. Printed copies of the law, code, or rule shall be kept in the office of the city clerk, available for inspection by, and distribution to, the public at all times. The publication shall contain a notice stating that a complete copy of the law, code, or rule is made available to the public at the office of the city clerk in compliance with state law requiring that records of public bodies be made available to the general public. A city shall not enforce any provision adopted by reference for which the maximum period of imprisonment is greater than 93 days.

(l) That the business of the legislative body shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. All records of the municipality shall be made available to the general public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(m) Keeping in the English language a written or printed journal of each session of the legislative body.

(n) A system of accounts that conforms to a uniform system of accounts as required by law.

Sec. 4a. (1) Each city in its charter may provide for the borrowing of money on the credit of the city and issuing bonds for the borrowing of money, for any purpose within the scope of the powers of the city.

(2) Notwithstanding a charter provision to the contrary, the net indebtedness incurred for all public purposes shall not exceed the greater of the following:

(a) Ten percent of the assessed value of all the real and personal property in the city.

(b) Fifteen percent of the assessed value of all the real and personal property in the city if that portion of the total amount of indebtedness incurred which exceeds 10% is or has been used solely for the construction or renovation of hospital facilities.

(3) In case of fire, flood, or other calamity, the legislative body may borrow for the relief of the inhabitants of the city and for the preservation of municipal property, a sum not to exceed 3/8 of 1% of the assessed value of all the real and personal property in the city, due in not more than 5 years, even if the loan would cause the indebtedness of the city to exceed the limit established by this section.

(4) In computing the net indebtedness, all of the following shall be excluded:

(a) Bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the city.

(b) Mortgage bonds that are secured only by a mortgage on the property or franchise of a public utility.

(c) Bonds issued to refund money advanced or paid on special assessments for water main extensions.

(d) Motor vehicle highway fund bonds, even though they are also a general obligation of the city.

(e) Revenue bonds.

(f) Bonds issued or contract or assessment obligations incurred to comply with an order of the water resources commission or a court of competent jurisdiction.

(g) Obligations incurred before January 9, 1973 for water supply, sewage, drainage, or refuse disposal, or resource recovery projects, or incurred after January 8, 1973 for projects necessary to protect the public health by abating pollution. A certification by the county, district, or state health department shall be sufficient proof that the project is necessary to protect the public health by abating pollution.

(h) Bonds issued to acquire housing for which rent subsidies will be received by the city or an agency of the city under a contract with the United States government and used by the city to operate and maintain the housing and pay principal and interest on the bonds.

(i) Obligations entered into under an intergovernmental self-insurance contract section 5 of 1951 PA 35, MCL 124.5, or issued to pay premiums or to establish funds to self-insure for losses under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(j) Bonds issued or assessments or contract obligations incurred for the construction, improvement, or replacement of a combined sewer overflow abatement facility. As used in this subdivision:

(i) "Combined sewer overflow" means a discharge from a combined sewer system that occurs when the flow capacity of the combined sewer system is exceeded.

(ii) "Combined sewer overflow abatement facility" means any works, instrumentalities, or equipment necessary or appropriate to abate combined sewer overflows.

(iii) "Combined sewer system" means a sewer designed and used to convey both storm water runoff and sanitary sewage, and which contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

(iv) "Construction" means any action taken in the designing or building of a combined sewer overflow abatement facility. This term includes, but is not limited to, all of the following:

(A) Engineering services.

(B) Legal services.

(C) Financial services.

(D) Design of plans and specifications.

(E) Acquisition of land or structural components, or both.

(F) Building, erection, alteration, remodeling, or extension of a combined sewer overflow abatement facility.

(G) City supervision of the project activities described in sub-subparagraphs (A) to (F).

(v) "Improvement" means any action taken to expand, rehabilitate, or restore a combined sewer overflow abatement facility.

(vi) "Replacement" means any action taken to obtain and install equipment, accessories, or appurtenances during the useful life of a combined sewer overflow abatement facility necessary to maintain the capacity and performance for which the equipment, accessories, or appurtenances are designed and constructed.

(5) The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the indebtedness.

(6) An obligation for the construction, renovation, or modernization of a hospital under subsection (2)(b) shall not be incurred after July 1, 1978 unless the construction, renovation, or modernization has been approved in accordance with any applicable act or unless the obligation is to refinance a previous obligation.

(7) Each city may provide in its charter for the borrowing of money and issuing bonds for the borrowing of money in anticipation of the payment of special assessments, which bonds may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the city.

(8) Bonds issued and obligations incurred before July 31, 1973 are validated.

(9) In computing the net indebtedness for the purposes of subsection (2), there may be added to the assessed value of real and personal property in a city for a fiscal year an amount equal to the assessed value equivalent of certain city revenues as determined under this subsection. The assessed value equivalent shall be calculated by dividing the sum of the following amounts by the city's millage rate for the fiscal year:

(a) The amount paid or the estimated amount required to be paid by the state to the city during the city's fiscal year for the city's use under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The department of treasury shall certify the amount upon request.

(b) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(c) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

Sec. 5. A city does not have power:

(a) To increase the rate of taxation now fixed by law, unless the authority to do so is given by a majority of the electors of the city voting at the election at which the proposition is submitted, but the increase in any case shall not be in an amount as to cause the rate to exceed 2%, except as provided by law, of the assessed value of the real and personal property in the city.

(b) To submit to the electors a charter more often than once in every 2 years, nor unless the charter is filed with the city clerk 60 days before the election, but this provision shall not apply to the submission and resubmission of charters of cities that may be incorporated under this act until they shall have first adopted a charter. Where a city submits to the electors a charter and the charter is adopted by the electors, and the city has operated under the charter, which charter has not, at the time it is adopted, been on file with the city clerk 60 days, then the legislative body of the city, upon its giving the notice of election as provided in the charter, may resubmit to the electors, at a special or general election, the charter, which, if adopted by the electors, shall be considered operative and effective as of the date of the first submission and adoption. The charter shall not be resubmitted unless 60 days have elapsed between the date of the filing of the charter and the date of the election at which the charter is resubmitted.

(c) To call more than 2 special elections within 1 year. This prohibition does not apply to elections that may be held in the submission and resubmission of charters of cities that may be incorporated under this act until they have first adopted a charter, and does not apply to elections that may be held in the resubmission of a charter once adopted as provided in subdivision (b).

(d) To decrease the salary of a municipal judge after his or her election or appointment, or during the judge's term of office, notwithstanding any charter provision to the contrary. The term of a public official shall not be shortened or extended beyond the period for which the official is elected or appointed, unless he or she resigns or is removed for cause, if the office is held for a fixed term.

(e) To adopt a charter or an amendment to the charter unless approved by a majority of the electors voting on the question; to sell a park, cemetery, or any part of a park or cemetery, except where the park is not required under an official master plan of the city; to engage in a business enterprise requiring an investment of money in excess of 10 cents per capita; or to authorize an issue of bonds except bonds issued in anticipation of the collection of taxes actually levied and uncollected or for which an appropriation has been made; bonds that the city is authorized by its charter to issue as part of its budget system, to an amount that in any year, together with the taxes levied for the same year, will not exceed the limit of taxation authorized by law; special assessment bonds; bonds for the city's portion of local improvements; refunding bonds; emergency bonds as defined by this act; and bonds that the legislative body is authorized by specific statute to issue without vote of the electors, unless approved by a majority of the electors voting on the question at a general or special election. In addition, a city that now has, or may subsequently have, a population of 750,000 persons or more may issue bonds, upon resolution of its governing body, without prior approval of the electors, which the city is authorized by its charter to issue as part of its budget system, to an amount that in any year, together with the ad valorem taxes levied for the same year, exclusive of debt service taxes or taxes levied pursuant to other laws, will not exceed 2-1/2% of the assessed value of the real and personal property in the city, this limitation to supersede and take the place of any contrary language in any existing city charter. For the purposes of this subdivision only, the assessed value of real and personal property in any city shall include the assessed value equivalent of money received during the city's fiscal year under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The assessed value equivalent shall be calculated by dividing the money received by the city's millage rate for the fiscal year. Notwithstanding the former provisions of this subdivision requiring approval by 3/5 of the electors voting on the question as a prerequisite to the exercise of certain powers, these powers may be exercised if approved by a majority of the electors voting on the question at a general or special election held on or after April 1, 1966.

(f) To make a contract with, or give an official position to, one who is in default to the city.

(g) To issue bonds without providing a sinking fund to pay them at maturity, except as provided in section 4g(1), but sinking funds shall not be required in the case of serial bonds that fall due annually. Bonds, whether authorized under this act or any other act, except refunding bonds, revenue bonds, motor vehicle highway fund bonds, rehabilitation bonds, judgment bonds, bonds or other obligations issued to fund an operating deficit of a city, bonds or other obligations to pay premiums or to establish funds to self-insure for losses as authorized by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, bonds the issuance of which has been approved by the voters, and bonds issued to comply with an order of a court of competent jurisdiction shall not be issued by a city unless notice of the issuance of the bonds is published once in a newspaper of general circulation in the city at least 45 days before the issuance of the bonds, within which period a petition may be filed with the legislative body signed by not less than 10% or 15,000 of the registered electors in the city, whichever is less, in which event the legislative body shall submit the question of the issuance of the bonds to the electors of the city, at a regular or special election in the city. The bonds shall not be issued unless a majority vote of the electors voting on the issuance vote in favor of issuing the bonds. The notice of intent to issue bonds shall state the maximum amount of the bond issue, the purpose of the bond issuance, source of payment, right of referendum on the issuance of the bonds, and other information as the legislative body determines to be necessary to adequately inform the electors and all other interested persons of the nature of the issue and of their rights with respect to the issue.

(h) To repudiate a debt by a change in its charter or by consolidation with any other municipality.

(i) To submit a franchise to the electors at a special election, unless the expense of holding the election, as determined by the legislative body, is paid in advance to the city treasurer by the grantee in the franchise.

Sec. 5f. (1) The legislative body of a city may provide by resolution for energy conservation improvements to be made to city facilities and may pay for the improvements from the general fund of the city or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way closures.

(2) The legislative body of a city may acquire 1 or more of the energy conservation improvements described in subsection (1) by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subsection shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subsection shall be full faith and credit, tax limited obligations of the city, payable from tax levies and the general fund as pledged by the legislative body of the city. The notes shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. This subsection does not limit in any manner the borrowing or bonding authority of a city as provided by law.

(3) If energy conservation improvements are made as provided in this section, the legislative body of a city shall report the following information to the Michigan public service commission within 60 days of the completion of the improvements:

- (a) Name of each facility to which an improvement is made and a description of the conservation improvement.
- (b) Actual energy consumption during the 12-month period before completion of the improvement.
- (c) Project costs and expenditures.
- (d) Estimated annual energy savings.

(4) If energy conservation improvements are made as provided in this section, the legislative body of a city shall report to the Michigan public service commission, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the Michigan public service commission.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Ray E. Randall

Clerk of the House of Representatives.

Approved _____

Governor.