

HOUSE BILL No. 5946

September 25, 2012, Introduced by Rep. Somerville and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to amend 1973 PA 139, entitled

"An act to provide forms of county government; to provide for county managers and county executives and to prescribe their powers and duties; to abolish certain departments, boards, commissions, and authorities; to provide for transfer of certain powers and functions; to prescribe powers of a board of county commissioners and elected officials; to provide organization of administrative functions; to transfer property; to retain ordinances and laws not inconsistent with this act; to provide methods for abolition of a unified form of county government; and to prescribe penalties and provide remedies,"

by amending the title and sections 9 and 9a (MCL 45.559 and 45.559a), the title as amended by 1998 PA 201 and section 9 as amended and section 9a as added by 2003 PA 281, and by adding section 9b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to provide forms of county government; to provide for county managers and county executives and to prescribe their powers

1 and duties; **TO PROVIDE FOR THE REMOVAL OF A COUNTY EXECUTIVE;** to
2 abolish certain departments, boards, commissions, and authorities;
3 to provide for transfer of certain powers and functions; to
4 prescribe powers of a board of county commissioners and elected
5 officials; to provide organization of administrative functions; to
6 transfer property; to retain ordinances and laws not inconsistent
7 with this act; to provide methods for abolition of a unified form
8 of county government; and to prescribe penalties and provide
9 remedies.

10 Sec. 9. (1) A county executive who is a qualified elector in
11 the county shall be elected on a partisan basis for a term of 4
12 years concurrent with the term of the county prosecuting attorney,
13 county clerk, county register of deeds, county treasurer, county
14 sheriff, elected county auditors, and county drain commissioner. If
15 a county executive is elected at an election different than the
16 election for county officers, his or her first term shall extend
17 only until the January following the election for county officers.

18 (2) The first county executive may be nominated in the same or
19 next primary or general election held after the election in which
20 alternate B is approved. The county executive shall then be elected
21 in the next regular primary or general election occurring not less
22 than 30 days nor more than 90 days after the date of the election
23 in which alternate B is approved or in which he or she was
24 nominated. If a primary or general election is not scheduled during
25 that period, the board of county commissioners shall call a special
26 election to elect a county executive. The county executive shall be
27 nominated and elected pursuant to the laws applicable to the

1 nomination and election of other county officials.

2 (3) If the first election of a county executive is a special
3 election for that purpose only, and only 1 candidate for each
4 political party qualifies to have his or her name appear on the
5 primary ballot, a primary election shall not be held, and the
6 candidate qualifying shall be certified as the nominee of the
7 political party for which he or she filed.

8 (4) Except as provided under section 9a, if the office of
9 elected county executive becomes vacant due to resignation,
10 **REMOVAL**, or death, the vacancy shall be filled by appointment of
11 the board of county commissioners until the next general election.
12 A new county executive shall be elected at the next general
13 election after the resignation, **REMOVAL**, or death of a county
14 executive and in the manner provided in this section for the
15 election of county executives. The newly elected county executive
16 shall serve a term equal to the balance of the term for which the
17 county executive who resigned, **WAS REMOVED**, or died was elected.

18 (5) The salary of the county executive for the initial term
19 shall be established by the board of county commissioners at least
20 6 months before the effective date of the optional unified form of
21 county government, containing alternate B. The salary shall be
22 established by the board consistent with the procedures established
23 for other elected officials. The county executive's salary shall be
24 commensurate with the duties and responsibilities of the office.
25 The salary of a county executive shall not be reduced during his or
26 her term of office except as part of a general salary reduction.

27 Sec. 9a. (1) For counties with a population of more than

1 1,000,000, if a vacancy occurs in the office of the elected county
2 executive due to death, **REMOVAL**, or resignation of the elected
3 county executive, the chief deputy shall take the constitutional
4 oath of office and serve as the county executive until the county
5 board of commissioners appoints a successor to the elected county
6 executive or until a special election is held as provided by law.

7 (2) If the county board of commissioners elects to appoint a
8 successor, the appointment shall be made no later than 30 days from
9 the date of the death, **REMOVAL**, or resignation. A county executive
10 appointed by the county board of commissioners shall serve until
11 the next general election. If the county board of commissioners
12 does not make an appointment within the required 30 days under this
13 subsection, a special election shall be held at the earliest
14 possible date allowed by law.

15 (3) If the chief deputy is unable to serve as the county
16 executive due to death, **REMOVAL**, or resignation of the chief
17 deputy, the next highest ranking deputy shall take the
18 constitutional oath of office and serve as the county executive
19 until the county board of commissioners appoints a successor as
20 provided under subsection (1) or until a special election is held
21 as provided by law.

22 (4) A new county executive shall be elected at the next
23 general election after the death, **REMOVAL**, or resignation of a
24 county executive as provided in section 9 for the election of
25 county executives. The newly elected county executive shall serve a
26 term equal to the balance of the term for which the county
27 executive who died, **WAS REMOVED**, or resigned was elected.

1 (5) Within 10 days after being sworn in, the county executive
2 shall appoint a chief deputy. The county executive may also appoint
3 additional deputies whom he or she considers necessary to perform
4 the functions and duties of the office of elected county executive.

5 (6) The county executive shall file a statement with the
6 county clerk identifying the individual appointed as chief deputy
7 and all other individuals appointed as a deputy or assistant
8 deputy. The statement shall also identify the ranking order of the
9 deputies.

10 (7) If the county executive is absent or unable to perform the
11 duties of his or her office, the chief deputy shall perform the
12 duties of the county executive until such time that the elected
13 county executive can resume the duties of his or her office.

14 (8) The county executive may revoke his or her appointments at
15 any time.

16 **SEC. 9B. (1) THE GOVERNOR SHALL REMOVE A COUNTY EXECUTIVE IF**
17 **THE GOVERNOR IS SATISFIED FROM THE EVIDENCE SUBMITTED THAT THE**
18 **COUNTY EXECUTIVE IS GUILTY OF OFFICIAL MISCONDUCT, WILLFUL NEGLECT**
19 **OF DUTY, EXTORTION, OR HABITUAL DRUNKENNESS, OR HAS BEEN CONVICTED**
20 **OF BEING A DRUNK, OR IF IT APPEARS BY A CERTIFIED COPY OF THE**
21 **JUDGMENT OF A COURT OF RECORD OF THIS STATE THAT THE COUNTY**
22 **EXECUTIVE, AFTER HIS OR HER ELECTION, HAS BEEN CONVICTED OF A**
23 **FELONY.**

24 **(2) BEFORE THE GOVERNOR REMOVES A COUNTY EXECUTIVE, ALL OF THE**
25 **FOLLOWING PROCEDURES SHALL BE FOLLOWED:**

26 **(A) CHARGES MUST BE EXHIBITED TO THE GOVERNOR IN WRITING**
27 **SPECIFYING THE GROUNDS FOR REMOVAL. THE CHARGES SHALL BE**

1 ACCOMPANIED BY ANY SUPPORTING EVIDENCE AND BY THE AFFIDAVIT OF THE
2 PERSON MAKING THE CHARGES VERIFYING THAT THE PERSON BELIEVES THE
3 CHARGES TO BE TRUE.

4 (B) A COPY OF THE CHARGES MUST BE SERVED ON THE COUNTY
5 EXECUTIVE. SERVICE SHALL BE MADE AS FOLLOWS:

6 (i) IF THE COUNTY EXECUTIVE CAN BE FOUND, BY HANDING TO THE
7 COUNTY EXECUTIVE A COPY OF THE CHARGES, TOGETHER WITH ALL
8 AFFIDAVITS OR EXHIBITS THAT MAY BE ATTACHED TO THE CHARGES.

9 (ii) IF THE COUNTY EXECUTIVE CANNOT BE FOUND, BY LEAVING A COPY
10 OF THE CHARGES, TOGETHER WITH ALL AFFIDAVITS OR EXHIBITS THAT MAY
11 BE ATTACHED TO THE CHARGES, WITH A PERSON OF SUITABLE AGE AT THE
12 COUNTY EXECUTIVE'S LAST KNOWN PLACE OF RESIDENCE OR, IF A PERSON OF
13 SUITABLE AGE IS NOT AVAILABLE, BY POSTING A COPY OR COPIES IN A
14 CONSPICUOUS PLACE AT THE COUNTY EXECUTIVE'S LAST KNOWN PLACE OF
15 RESIDENCE.

16 (C) THE COUNTY EXECUTIVE SHALL BE GIVEN AN OPPORTUNITY TO
17 RESPOND TO THE CHARGES.

18 (3) A COUNTY EXECUTIVE REMOVED FROM OFFICE UNDER THIS SECTION
19 IS NOT ELIGIBLE FOR ELECTION OR APPOINTMENT TO ANY OFFICE FOR A
20 PERIOD OF 3 YEARS FROM THE DATE OF THE REMOVAL.