

THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909

117.5 Prohibited powers.

Sec. 5. (1) A city does not have power to do any of the following:

(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.

(2) Beginning on the effective date of the amendatory act that added this subsection, a city shall not adopt a city charter or ordinance that includes any minimum staffing requirement for city employees. Except as otherwise provided in this subsection, any provision in a city charter or ordinance adopted on or after the effective date of the amendatory act that added this subsection that contains a minimum staffing requirement for city employees is void and unenforceable.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—CL 1915, 3308;—Am. 1917, Act 6, Imd. Eff. Mar. 9, 1917;—Am. 1919, Act 240, Eff. Aug. 14, 1919;—Am. 1923, Act 119, Imd. Eff. May 2, 1923;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2241;—Am. 1935, Act 239, Imd. Eff. June 8, 1935;—Am. 1941, Act 60, Eff. Jan. 10, 1942;—Am. 1948, 1st Ex. Sess., Act 44, Eff. Aug. 20, 1948;—CL 1948, 117.5;—Am. 1949, Act 207, Eff. Sept. 23, 1949;—Am. 1965, Act 65, Eff. Mar. 31, 1966;—Am. 1966, Act 32, Imd. Eff. May 17, 1966;—Am. 1966, Act 350, Imd. Eff. Dec. 21, 1966;—Am. 1969, Act 41, Imd. Eff. July 17, 1969;—Am. 1972, Act 8, Imd. Eff. Feb. 17, 1972;—Am. 1973, Act 81, Imd. Eff. July 31, 1973;—Am. 1976, Act 178, Imd. Eff. June 30, 1976;—Am. 1981, Act 81, Imd. Eff. July 1, 1981;—Am. 1988, Act 268, Imd. Eff. July 15, 1988;—Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002;—Am. 2011, Act 133, Imd. Eff. Sept. 13, 2011.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to MCL 117.1.

The 1911 amendment reads as follows:

“Sec. 5. No city shall have power:

“(a) To lay and collect taxes in a sum in excess of two per centum per annum of the assessed value of the real and personal property in such city;

“(b) To submit to the electors a charter or to resubmit any amendment thereto oftener than once in every two years, nor unless it shall be filed with the city or village clerk ninety days before the election: Provided, however, That this provision shall not apply to the submission and resubmission of charters of cities which may be incorporated under this act until they shall have first adopted a charter;

“(c) To call more than two special elections within one year: Provided, however, That this prohibition shall not apply to elections which may be held in the submission and resubmission of charters of cities which may be incorporated under this act until they shall have first adopted a charter;

“(d) To change the salary or emoluments of any public official after his election or appointment or during his term of office;

“(e) To adopt a charter or any amendment thereto, unless approved by a majority of the electors voting thereon; to sell any property of a value in excess of ten cents per capita according to the last preceding United States census, or any park, cemetery, or any real estate used in carrying on a public utility, or any part thereof, or any property bordering on a water front, or vacate any street or public place leading to a water front, or engage in any business enterprise requiring an investment of money in excess of ten cents per capita, or authorize any issue of bonds except special assessment bonds, refunding bonds, and emergency bonds as defined by this act and bonds that it is annually authorized to issue, unless approved by three-fifths of the electors voting thereon at any general or special election;

“(f) To make any contract with, or give any official position to one who is in default to the city;

“(g) To issue any bonds without providing a sinking fund, to pay them at maturity, but no sinking fund shall be required in the case of serial bonds which fall due annually;

“(h) To repudiate any debt by any 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, shall be paid in advance by the grantee in said franchise to the city treasurer.”