



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**COUNTY COMMISSIONER: POWERS
AND VOTING REQUIREMENTS**

**House Bill 5701 (Substitute H-2)
First Analysis (5-9-96)**

**Sponsor: Rep. Robert Brackenridge
Committee: Local Government**

THE APPARENT PROBLEM:

County officials complain that the 1851 act that spells out the powers of county boards of commissioners contains outdated provisions and antiquated language that can make it hard to interpret. It also is organized so that one section enumerates the powers of the boards and another separate section lists the powers that can only be exercised by a two-thirds vote. A representative of counties has said that in reading the statute, county officials often miss this provision regarding two-thirds voting and instead use a majority vote instead. Legislation has been introduced to modernize the act somewhat and to remove the section containing the two-thirds voting requirements.

THE CONTENT OF THE BILL:

Public Act 156 of 1851 defines the powers and duties of the county boards of commissioners, and Section 12 requires that certain specified powers can only be exercised with a two-thirds vote of the members elected to the board. House Bill 5701 would repeal Section 12. Instead, questions arising at meetings of the county board would be determined by a majority of those present, except that the final passage or adoption of a measure or resolution or the allowance of a claim against the county would be determined by a majority of members elected and serving. Further, the bill would specify that a county board could require in its bylaws that the votes of two-thirds of the members present or a majority of members elected and serving, whichever was greater, was required on final passage or adoption of a non-agenda item.

The repeal of Section 12 would mean that a two-thirds majority vote would no longer be required for:

- determining the site of a county building;
- erecting the necessary buildings for jails, clerks' offices, and other county buildings, and prescribing the time and manner of erecting them;

-- authorizing the making of a new tax roll; and

-- representing the county and being responsible for the care and management of the property and business of the county if other provisions are not made.

The bill also would amend the provision granting a county board the power to borrow or tax to specify that the exercise of such an authority would be subject to any voting requirement provided by the law authorizing the borrowing or tax if it was different from the general voting requirements in the act.

Also under the bill, county commissioners could enter into leases for up to 20 years rather than, as now, for up to 5 years, for real estate needed for county buildings.

The bill also would delete several provisions considered outdated. It would delete provisions specifically granting a county the power to purchase property for the support of the poor and for a poor farm and the power "to abolish or revive the distinctions between township and county poor." It would delete language granting a county board the power to authorize a township, with the approval of township voters, to borrow money or raise taxes for road and bridge projects. It also would remove a provision granting a county board the power to remove or designate a new site for a county building "required to be at the county seat" and to remove or designate a new site for a county infirmary or medical care facility. Instead, the general provision granting a county board the power to determine the site of a county building would be amended to add the power to remove or designate a new site for a county building and would specify that the exercise of that authority would be subject to any requirements of law that the building be located at the county seat.

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Public Act 156 does contain provisions requiring a two-thirds vote in cases not addressed by Section 12, and those remain unchanged by the bill. One deals with removing an officer of the county who neglects or refuses to make a report or give a bond; another deals with receiving and allowing accounts at the October session.

MCL 46.3 et al.

FISCAL IMPLICATIONS:

The bill has no state or local fiscal impact, according to the House Fiscal Agency (Fiscal Note dated 4-22-96).

ARGUMENTS:

For:

The bill updates and modernizes somewhat the 1851 act that specifies the powers of county boards of commissioners and removes a section that lists the powers that can only be exercised by two-thirds vote. The section being repealed is said to be often overlooked and outdated. Most of those powers are routine matters for county boards and should not require a two-thirds vote. Other governmental units, it is said, conduct such business by simple majorities. The bill would allow commissioners to conduct their business mostly by majority vote, except when board bylaws required otherwise or when other related tax and borrowing acts required otherwise.

POSITIONS:

The Michigan Association of Counties supports the bill. (5-8-96)

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.