

# HOUSE BILL No. 4726

May 25, 1999, Introduced by Reps. Law, Richner and O'Neil and referred to the Committee on Constitutional Law and Ethics.

A bill to amend 1966 PA 293, entitled

"An act to provide for the establishment of charter counties; to provide for the election of charter commissioners; to prescribe their powers and duties; to prohibit certain acts of a county board of commissioners after the approval of the election of a charter commission; to prescribe the mandatory and permissive provisions of a charter; to provide for the exercise by a charter county of certain powers whether or not authorized by its charter; and to prescribe penalties and provide remedies,"

by amending sections 11a and 14 (MCL 45.511a and 45.514), section 11a as added by 1980 PA 7 and section 14 as amended by 1982 PA 300, and by adding section 22.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 11a. (1) In a county with a population of 1,500,000 or  
2 more, the commission shall approve alternative charter proposals  
3 for simultaneous submission to the electors ~~pursuant to the pro-~~  
4 ~~visions of~~ AS PROVIDED IN this section.

1           (2) The commission shall approve for submission 2  
2 alternative charter proposals not more than 180 days after the  
3 date of completing its organization as provided in section 10.  
4 If the commission fails to approve for submission 2 charter pro-  
5 posals within the 180-day period, the charter commission shall be  
6 dissolved.

7           (3) Before either proposed charter is submitted to the elec-  
8 tors, each proposed charter shall be approved by a majority of  
9 the members elected to the commission with the vote and names of  
10 the members voting on each proposed charter entered in the  
11 journal.

12           (4) Except as to the method of selection of a chief adminis-  
13 trative officer or an elected county executive; the veto power of  
14 the chief administrative officer or the elected county executive;  
15 and the removal of the chief administrative officer or the  
16 elected county executive, the 2 alternative charter proposals  
17 shall not differ.

18           (5) One charter proposal shall provide for a county execu-  
19 tive elected at large. ~~on a partisan basis.~~

20           (6) One charter proposal shall provide for a chief adminis-  
21 trative officer. The chief administrative officer shall be  
22 selected for a 4-year term of office by a majority of the county  
23 board of commissioners elected and serving, the chief administra-  
24 tive officer may only be removed from office for cause by a 2/3  
25 vote of the county board of commissioners elected and serving.

26           (7) A charter shall be declared adopted by the electors if  
27 it receives more yes votes than no votes. If both charters

1 receive more yes votes than no votes, the charter ~~which~~ THAT  
2 receives the higher number of yes votes shall be declared  
3 adopted. An elector may vote yes or no on either, or both, of  
4 the charters.

5 (8) One charter proposal shall provide for the duties and  
6 responsibilities of the elected county executive. The other  
7 charter proposal shall provide for the duties and responsibili-  
8 ties of the chief administrative officer. Under each charter  
9 proposal, the duties and responsibilities of the elected county  
10 executive or chief administrative officer shall not differ,  
11 except as provided in subsection (4), and at a minimum, shall  
12 include the duty and responsibility to:

13 (a) Supervise, direct, and control the functions of all  
14 departments of the county except those headed by elected  
15 officials.

16 (b) Coordinate the various activities of the county and  
17 unify the management of its affairs.

18 (c) Enforce all orders, rules, and ordinances of the county  
19 board of commissioners and laws of the state required to be  
20 enforced by his or her office.

21 (d) Prepare and submit to the county board of commissioners  
22 a recommended annual county budget and work program, and adminis-  
23 ter the expenditure of funds in accordance with appropriations.  
24 An elected officer, county road commissioner, or a body which has  
25 the powers of a county road commission may appear before the  
26 board as to the officer's, commissioner's, or body's own budget.  
27 Not less than once each year the chief administrative officer or

1 elected county executive shall submit to the county board of  
2 commissioners a proposed long-range capital improvement program  
3 and capital budget.

4 (e) Except elected officials, appoint, supervise, and at  
5 pleasure remove heads of departments and all boards and  
6 commissions.

7 (f) Submit recommendations to the board for the efficient  
8 conduct of county business.

9 (g) Report to the county board of commissioners on the  
10 affairs of the county and its needs, and advise the board not  
11 less than once each 3 months on the financial condition of the  
12 county.

13 (9) The elected county executive may veto an ordinance or  
14 resolution adopted by the county board of commissioners including  
15 an item of an ordinance which appropriates funds. The veto shall  
16 be certified by the elected county executive to the board of  
17 county commissioners not more than 10 days ~~from~~ AFTER the date  
18 of adoption of an ordinance or resolution. The county board of  
19 commissioners may override the veto by a 2/3 vote of the county  
20 board of commissioners elected and serving.

21 (10) The ballot shall contain voting instructions and a  
22 brief explanation of each charter presented.

23 Sec. 14. ~~(1)~~ A county charter adopted under this act  
24 shall provide ~~for~~ all of the following:

25 (A) SUBJECT TO SECTION 22, EITHER THAT THE ELECTION OF ALL  
26 COUNTY OFFICERS THAT ARE ELECTED AT LARGE IS PARTISAN OR THAT THE  
27 ELECTION OF ALL SUCH OFFICERS IS NONPARTISAN. IF A COUNTY IS

1 ESTABLISHED AS A HOME RULE COUNTY AFTER JANUARY 1, 2001, AND THE  
2 CHARTER PROVIDES FOR THE NONPARTISAN ELECTION OF COUNTY OFFICERS  
3 THAT ARE ELECTED AT LARGE, THE CHARTER SHALL ALSO PROVIDE FOR THE  
4 PROCEDURES FOR THE NONPARTISAN ELECTIONS WHICH SHALL BE CONDUCTED  
5 AS NEARLY AS POSSIBLE IN THE SAME MANNER AS NONPARTISAN ELECTIONS  
6 UNDER THE MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.1 TO  
7 168.992.

8 (B) ~~(a)~~ In a county having a population of less than  
9 1,500,000, for a salaried county executive ~~,~~ who ~~shall be~~ IS  
10 elected at large ~~on a partisan basis, and for~~ AND the county  
11 executive's authority, duties, and responsibilities. In a county  
12 having a population of 1,500,000 ~~,~~ or more, a county charter  
13 adopted under this act shall provide for a form of executive gov-  
14 ernment described and adopted pursuant to the procedures pre-  
15 scribed in section 11a.

16 (C) ~~(b) The election of~~ FOR a legislative body, to be  
17 known as the county board of commissioners, whose term of office  
18 ~~shall be~~ IS concurrent with that of state representatives, and  
19 ~~for~~ their authority, duties, responsibilities, and number,  
20 which shall be not less than 5 ~~nor~~ OR more than 21 in counties  
21 of less than 600,000, and not less than 5 ~~nor~~ OR more than 27  
22 in counties of 600,000 or more. The county board of commission-  
23 ers shall provide by ordinance for their compensation and may  
24 increase or decrease their compensation. However, a change in  
25 compensation shall not be effective during the term of office for  
26 which the legislative body making the change was elected. The  
27 charter shall also provide for the ~~partisan~~ election of members

1 of the legislative body from single member districts to be  
2 established by the county apportionment commission as created in  
3 section 5 and pursuant to the standards and guidelines estab-  
4 lished in section 5 for reapportionment based upon the last offi-  
5 cial federal decennial census, effective at the first regular  
6 general election of the members of the legislative body occurring  
7 not less than 12 months after the completion and certification of  
8 the federal DECENNIAL census. Each city and township shall be  
9 apportioned so that it has the largest possible number of com-  
10 plete districts within its boundaries before any part of the city  
11 or township is joined to territory outside the boundaries of the  
12 city or township to form a district.

13 (D) ~~(c) The partisan~~ FOR THE election of a sheriff, a  
14 prosecuting attorney, a county clerk, a county treasurer, and a  
15 register of deeds, and ~~for~~ the authority of the county board of  
16 commissioners to combine the county clerk and register of deeds  
17 into 1 office as authorized by law.

18 (E) ~~(d)~~ Except as provided in subdivision ~~(c)~~ (D), FOR  
19 the continuation of all existing county offices, boards, commis-  
20 sions, and departments whether established by law or by action of  
21 the county board of commissioners; the performance of their  
22 respective duties by other county offices, boards, commissions,  
23 and departments; or ~~for~~ the discontinuance of these county  
24 offices, boards, commissions, and departments. Notwithstanding  
25 the provisions of this subdivision ~~in relation to~~ CONCERNING  
26 existing county offices, boards, commissions, and departments, a

1 county charter shall ~~insure~~ SATISFY the following

2 REQUIREMENTS:

3       (i) In a county having a population of less than 1,500,000,  
4 the charter shall not be in derogation of the powers and duties  
5 of the county road commission in the exercise of their statutory  
6 duties concerning the preservation of a county road system. The  
7 charter for these counties shall provide for the creation of a  
8 3-member commission. ~~Not less than~~ AT LEAST 1 member of the  
9 3-member commission shall be a resident of a township within the  
10 county.

11       (ii) In a county having a population of 1,500,000 or more,  
12 the charter shall provide for the continuation of a county road  
13 system within the county. Notwithstanding any other provisions  
14 of this act, the charter ~~described in this subparagraph~~ IN SUCH  
15 A COUNTY shall provide that responsibility for the determination  
16 of the expenditure of all funds for road construction and road  
17 maintenance, and for carrying out the powers and duties pertain-  
18 ing to a county road system as provided in sections 9 to 32 of  
19 chapter ~~4~~ IV of ~~Act No. 283 of the Public Acts of 1909, as~~  
20 ~~amended, being sections 224.9 to 224.32 of the Michigan Compiled~~  
21 ~~Laws~~ 1909 PA 283, MCL 224.9 TO 224.32, shall be vested in a  
22 3-member commission. The charter shall provide that 1 member of  
23 the 3-member commission shall be a resident of the most populous  
24 city in the county, 1 member shall be a resident of a city other  
25 than the most populous city within the county, and 1 member shall  
26 be a resident of a township within the county. The charter shall  
27 provide that the 3-member commission shall be appointed by either

1 the elected county executive or the chief administrative  
2 officer. Appointment to the 3-member commission shall require  
3 advice and consent by a majority of the county board of commis-  
4 sioners elected and serving not more than 60 days after the  
5 appointment. If the county board of commissioners does not vote  
6 on the appointment within 60 days, the appointment ~~shall become~~  
7 IS final. The charter may provide for a fixed term of years for  
8 the members of the 3-member commission, but the charter ~~,~~  
9 ~~however,~~ shall provide that the members of the 3-member commis-  
10 sion may be removed at the pleasure of the elected county execu-  
11 tive or the chief administrative officer. The charter shall  
12 specify duties and procedures to assure that administrative deci-  
13 sions made for road construction shall be coordinated with admin-  
14 istrative decisions made for other programs ~~which~~ THAT relate  
15 to roads. THIS SUBPARAGRAPH DOES NOT APPLY TO A COUNTY IN WHICH  
16 THE CHARTER IS AMENDED TO PROVIDE FOR AN ALTERNATIVE METHOD OF  
17 CARRYING OUT THE POWERS AND DUTIES THAT ARE OTHERWISE PROVIDED BY  
18 LAW FOR A BOARD OF COUNTY ROAD COMMISSIONERS. As used in this  
19 subparagraph, "road construction" means all of the following:  
20 (A) The building of a new road or street and the improving  
21 of an existing road or street by THE correction OF grades, THE  
22 INSTALLATION, REPAIR, OR IMPROVEMENT OF drainage structures, THE  
23 ALTERATION OF width ~~,~~ OR alignment, or THE REPAIR OR REPLACE-  
24 MENT OF THE surface.  
25 (B) The building of bridges or grade separations and the  
26 repair of these structures by strengthening, widening, ~~and~~ OR  
27 the replacement of piers and abutments.



1 (C) The initial signing of newly constructed roads or  
2 streets, major resigning of projects, ~~and~~ OR the installation,  
3 replacement, or improvement of traffic signals.

4 (F) ~~(e) The~~ FOR THE continuation and implementation of a  
5 system of pensions and retirement for county officers and  
6 employees, in ~~those counties~~ A COUNTY having a system in effect  
7 at the time of the adoption of the charter. The system provided  
8 under the charter shall recognize the accrued rights and benefits  
9 of the officers and employees under the system ~~then~~ in effect  
10 AT THE TIME OF THE ADOPTION OF THE CHARTER. The charter shall  
11 not infringe upon ~~nor~~ OR be in derogation of those accrued  
12 rights and benefits. The charter shall not preclude future modi-  
13 fication of the system.

14 (G) ~~(f) The~~ FOR THE continuation and implementation of a  
15 system of civil service, in ~~those counties~~ A COUNTY having a  
16 system at the time of the adoption of the charter. The system of  
17 civil service provided under the charter shall recognize the  
18 rights and status of persons under the civil service system  
19 ~~then~~ in effect AT THE TIME OF THE ADOPTION OF THE CHARTER. The  
20 charter shall not infringe upon ~~nor~~ OR be in derogation of  
21 those rights and that status. The charter shall not preclude  
22 future modification of the system. Except as provided in subdi-  
23 vision ~~(d)~~ (E), the charter shall provide that the system of  
24 civil service be coordinated among the county offices, boards,  
25 commissions, and departments.

26 (H) ~~(g)~~ That the general statutes and local acts of this  
27 state regarding counties and county officers shall continue in

1 effect except to the extent that this act permits the charter to  
2 provide otherwise, if the charter does in fact provide  
3 otherwise.

4 (I) ~~(h) The~~ That all ordinances of the county shall remain in  
5 effect unless changed by the charter or an ordinance adopted  
6 under the charter.

7 (J) ~~(i) The~~ FOR THE power and authority to adopt, amend,  
8 and repeal any ordinance authorized by law, or necessary to carry  
9 out any power, function, or service authorized by this act and by  
10 the charter.

11 (K) ~~(j) The~~ FOR THE power and authority to enter into any  
12 intergovernmental contract ~~which~~ THAT is not specifically pro-  
13 hibited by law.

14 (L) ~~(k) The~~ FOR THE power and authority to join, estab-  
15 lish, or form with any other governmental unit an intergovernmen-  
16 tal district or authority for the purpose of performing a public  
17 function or service ~~, which~~ THAT each is authorized to perform  
18 separately ~~,~~ AND the performance of which is not prohibited by  
19 law.

20 (M) ~~(l) A~~ FOR A debt limit of not to exceed 10% of the  
21 state equalized value of the taxable property within the county.

22 (N) ~~(m) The~~ FOR THE levy and collection of taxes, FOR the  
23 fixing of an ad valorem property tax limitation of not to exceed  
24 1% of the state equalized value of the taxable property within  
25 the county, and that the levy of taxes from within this ad  
26 valorem property tax limitation shall not exceed, unless  
27 otherwise approved by the electors, the tax rate in mills, equal

1 to the number of mills allocated to the county either by a county  
2 tax allocation board or by a separate tax limitation under the  
3 property tax limitation act, ~~Act No. 62 of the Public Acts of~~  
4 ~~1933, as amended, being sections 211.201 to 211.217a of the~~  
5 ~~Michigan Compiled Laws~~ 1933 PA 62, MCL 211.201 TO 211.217A, in  
6 the year immediately preceding the year in which the county  
7 adopts a charter.

8 (O) ~~(n) Initiative~~ FOR INITIATIVE and referendum on all  
9 matters within the scope of the county's power and authority ~~+~~  
10 and ~~for~~ the recall of all county officials.

11 (P) ~~(o) Amendment~~ FOR AMENDMENT or revision of the charter  
12 initiated either by action of the legislative body of the county  
13 or by initiatory process. An amendment or revision shall not  
14 become effective unless the amendment or revision is submitted to  
15 the electorate of the county and approved by a majority of those  
16 voting.

17 (Q) ~~(p)~~ That the acquisition, operation, and sale of  
18 public utility facilities for furnishing light, heat, or power  
19 shall be subject to the same restrictions as imposed on cities  
20 and villages by the state constitution of 1963 and applicable  
21 law.

22 (R) ~~(q) Annual~~ FOR ANNUAL preparation, review, approval,  
23 and adherence to a balanced budget in a manner ~~which assures~~  
24 THAT ENSURES coordination among the county offices, boards, com-  
25 missions, and departments, except as provided in subdivision  
26 ~~(d)~~ (E).

1       (S) ~~(r) An~~ FOR AN annual audit by an independent certified  
2 public accountant of all county funds.

3       (T) ~~(s) That, a~~ IF THE county ~~that~~ incurs a budget  
4 deficit in any fiscal year, BEFORE ADOPTION OF THE NEXT ANNUAL  
5 COUNTY BUDGET, THE COUNTY shall prepare ~~and submit~~ a detailed  
6 and specific 5-year plan for short term financial recovery and  
7 long range financial stability AND SUBMIT THE PLAN to the gover-  
8 nor and the legislature ~~, before adoption of the next annual~~  
9 ~~county budget,~~ for review. The ~~5-year~~ plan shall include, but  
10 not be limited to, a projection of annual revenues and expendi-  
11 tures, an employee classification and pay plan, a capital  
12 improvements budget, and equipment replacement schedules.

13       ~~(2) Subsection (1)(d)(ii) shall not apply to a county in~~  
14 ~~which the charter is amended to provide for an alternative method~~  
15 ~~of carrying out the powers and duties which are otherwise pro-~~  
16 ~~vided by law for a board of county road commissioners.~~

17       SEC. 22. (1) IF A COUNTY WAS ESTABLISHED AS A HOME RULE  
18 COUNTY BEFORE JANUARY 1, 2001, AT THE FIRST COUNTYWIDE ELECTION  
19 TO BE HELD NOT LESS THAN 70 DAYS AFTER THE EFFECTIVE DATE OF THIS  
20 SECTION, THE FOLLOWING QUESTION SHALL APPEAR ON THE BALLOT:

21       "SHALL THE PROCESS IN THE COUNTY CHARTER FOR ELECTING THOSE  
22 COUNTY OFFICERS THAT ARE ELECTED AT LARGE BE CHANGED FROM PARTI-  
23 SAN ELECTIONS TO NONPARTISAN ELECTIONS?

24       YES ( )

25       NO ( ).".

26       (2) IF A MAJORITY OF THE ELECTORS VOTING ON THE QUESTION  
27 VOTE "YES", THE ELECTION OF COUNTY OFFICERS THAT ARE ELECTED AT

1 LARGE IN THAT COUNTY SHALL BE NONPARTISAN, BEGINNING WITH THE  
2 FIRST REGULAR PRIMARY ELECTION TO BE HELD NOT LESS THAN 90 DAYS  
3 AFTER THE ELECTION PROVIDED FOR IN SUBSECTION (1), AND THE  
4 CHARTER SHALL BE AUTOMATICALLY AMENDED BY THE ADDITION OF THE  
5 FOLLOWING PROVISION: "NOTWITHSTANDING ANY OTHER PROVISION OF  
6 THIS CHARTER, FOR EACH COUNTY OFFICE FOR WHICH AT LARGE ELECTIONS  
7 ARE HELD, A NONPARTISAN PRIMARY ELECTION SHALL BE CONDUCTED AND  
8 THE TWO CANDIDATES RECEIVING THE HIGHEST VOTE IN THE PRIMARY  
9 ELECTION SHALL BE CANDIDATES IN THE GENERAL ELECTION".