

# HOUSE BILL No. 4857

June 18, 2003, Introduced by Reps. Meisner and Van Regenmorter and referred to the Committee on Criminal Justice.

A bill to amend 1909 PA 279, entitled  
"The home rule city act,"  
by amending sections 3 and 4i (MCL 117.3 and 117.4i), section 3  
as amended by 2002 PA 201 and section 4i as amended by 1999 PA  
55.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3. Each city charter shall provide for all of the  
2 following:

3       (a) The election of a mayor, who shall be the chief executive  
4 officer of the city, and of a body vested with legislative power,  
5 and for the election or appointment of a clerk, a treasurer, an  
6 assessor or board of assessors, a board of review, and other  
7 officers considered necessary. The city charter may provide for  
8 the selection of the mayor by the legislative body. Elections  
9 may be by a partisan, nonpartisan, or preferential ballot, or by

1 any other legal method of voting. Notwithstanding any other law  
2 or charter provision to the contrary, a city having a 1970  
3 official population of more than 150,000, whose charter provides  
4 for terms of office of less than 4 years, and in which the term  
5 of office for the mayor and the governing body are of the same  
6 length, may provide by ordinance for a term of office of up to 4  
7 years for mayor and other elected city officials. The ordinance  
8 shall provide that the ordinance shall take effect 60 days after  
9 it is enacted unless within the 60 days a petition is submitted  
10 to the city clerk signed by not less than 10% of the registered  
11 electors of the city requesting that the question of approval of  
12 the ordinance be submitted to the electors at the next regular  
13 election or a special election called for the purpose of  
14 approving or disapproving the ordinance.

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

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

19 (d) The qualifications, duties, and compensation of the  
20 city's officers. If the city has an appointed chief  
21 administrative officer, the legislative body of the city may  
22 enter into an employment contract with the chief administrative  
23 officer extending beyond the terms of the members of the  
24 legislative body unless the employment contract is prohibited by  
25 the city charter. An employment contract with a chief  
26 administrative officer shall be in writing and shall specify the  
27 compensation to be paid to the chief administrative officer, any

1 procedure for changing the compensation, any fringe benefits, and  
2 any other conditions of employment. The contract shall state if  
3 the chief administrative officer serves at the pleasure of the  
4 legislative body, and the contract may provide for severance pay  
5 or other benefits in the event the chief administrative officer's  
6 employment is terminated at the pleasure of the legislative  
7 body.

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

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

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

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

25 (i) The levy, collection, and return of state, county, and  
26 school taxes in conformance with the general laws of this state,  
27 except that the preparation of the assessment roll, the meeting

1 of the board of review, and the confirmation of the assessment  
2 roll may be at the times provided in the city charter.

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

13 (k) Adopting, continuing, amending, and repealing the city  
14 ordinances and for the publication of each ordinance before it  
15 becomes operative. Whether or not provided in its charter,  
16 instead of publishing a true copy of an ordinance before it  
17 becomes operative, the city may publish a summary of the  
18 ordinance. If the city publishes a summary of the ordinance, the  
19 city shall include in the publication the designation of a  
20 location in the city where a true copy of the ordinance can be  
21 inspected or obtained. Any charter provision to the contrary  
22 notwithstanding, a city may adopt an ordinance punishable by  
23 imprisonment for not more than 93 days or a fine ~~of not more~~  
24 ~~than \$500.00~~ **consistent with state law**, or both, if the  
25 violation substantially corresponds to a violation of state law  
26 that is a misdemeanor for which the maximum period of  
27 imprisonment is 93 days. Whether or not provided in its charter,

1 a city may adopt a provision of any state statute for which the  
2 maximum period of imprisonment is 93 days, the Michigan vehicle  
3 code, 1949 PA 300, MCL 257.1 to 257.923, or a law, code, or rule  
4 that has been promulgated and adopted by an authorized agency of  
5 this state pertaining to fire, fire hazards, fire prevention, or  
6 fire waste, and a fire prevention code, plumbing code, heating  
7 code, electrical code, building code, refrigeration machinery  
8 code, piping code, boiler code, boiler operation code, elevator  
9 machinery code, or a code pertaining to flammable liquids and  
10 gases or hazardous chemicals, that has been promulgated by this  
11 state, by a department, board, or other agency of this state, or  
12 by an organization or association that is organized and conducted  
13 for the purpose of developing the code, by reference to the law,  
14 code, or rule in an adopting ordinance and without publishing the  
15 law, code, or rule in full. The law, code, or rule shall be  
16 clearly identified in the ordinance and its purpose shall be  
17 published with the adopting ordinance. Printed copies of the  
18 law, code, or rule shall be kept in the office of the city clerk,  
19 available for inspection by, and distribution to, the public at  
20 all times. The publication shall contain a notice stating that a  
21 complete copy of the law, code, or rule is made available to the  
22 public at the office of the city clerk in compliance with state  
23 law requiring that records of public bodies be made available to  
24 the general public. A city shall not enforce any provision  
25 adopted by reference for which the maximum period of imprisonment  
26 is greater than 93 days.

27 (l) That the business of the legislative body shall be

1 conducted at a public meeting held in compliance with the open  
2 meetings act, 1976 PA 267, MCL 15.261 to 15.275. All records of  
3 the municipality shall be made available to the general public in  
4 compliance with the freedom of information act, 1976 PA 442,  
5 MCL 15.231 to 15.246.

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

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

10 Sec. 4i. Each city may provide in its charter for 1 or more  
11 of the following:

12 (a) Laying and collecting rents, tolls, and excises.

13 (b) Regulating and restricting the locations of oil and  
14 gasoline stations.

15 (c) The establishment of districts or zones within which the  
16 use of land and structures, the height, area, size, and location  
17 of buildings, the required open spaces for light and ventilation  
18 of buildings, and the density of population may be regulated by  
19 ordinance. The zoning ordinance provisions applicable to 1 or  
20 more districts may differ from those applicable to other  
21 districts. If a city is incorporated, or if territory is annexed  
22 to a city incorporated under this act, the zoning ordinance  
23 provisions applicable to the territory within the newly  
24 incorporated city or the annexed territory shall remain in effect  
25 for 2 years after the incorporation or annexation unless the  
26 legislative body of the city lawfully adopts other zoning  
27 ordinance provisions.

1 (d) The regulation of trades, occupations, and amusements  
2 within city boundaries, if the regulations are not inconsistent  
3 with state or federal law, and the prohibition of trades,  
4 occupations, and amusements that are detrimental to the health,  
5 morals, or welfare of the inhabitants of that city.

6 (e) The regulation or prohibition of public nudity within  
7 city boundaries. As used in this subdivision, "public nudity"  
8 means knowingly or intentionally displaying in a public place, or  
9 for payment or promise of payment by any person including, but  
10 not limited to, payment or promise of payment of an admission  
11 fee, any individual's genitals or anus with less than a fully  
12 opaque covering or a female individual's breast with less than a  
13 fully opaque covering of the nipple and areola. Public nudity  
14 does not include any of the following:

15 (i) A woman's breastfeeding of a baby whether or not the  
16 nipple or areola is exposed during or incidental to the feeding.

17 (ii) Material as defined in section 2 of 1984 PA 343,  
18 MCL 752.362.

19 (iii) Sexually explicit visual material as defined in section  
20 3 of 1978 PA 33, MCL 722.673.

21 (f) Licensing, regulating, restricting, and limiting the  
22 number and locations of billboards within the city.

23 (g) The initiative and referendum on all matters within the  
24 scope of the powers of that city and the recall of city  
25 officials.

26 (h) A system of civil service for city employees, including  
27 employees of that city's board of health, and employees of any

1 jail operated or maintained by the city. Charter provisions  
2 providing for a system of civil service for employees of a local  
3 health board are valid and effective.

4 (i) A system of compensation for city employees and the  
5 dependents of city employees in the case of disability, injury,  
6 or death of city employees.

7 (j) The enforcement of police, sanitary, and other ordinances  
8 that are not in conflict with the general laws.

9 (k) The punishment of persons who violate city ordinances  
10 other than ordinances described in section 4l. The penalty for a  
11 violation of such a city ordinance shall not exceed a fine of  
12 \$500.00 or imprisonment for 90 days, or both. However, unless  
13 otherwise provided by law, the ordinance may provide that a  
14 violation of the ordinance is punishable by imprisonment for not  
15 more than 93 days or a fine ~~of not more than \$500.00~~ **consistent**  
16 **with state law**, or both, if the violation substantially  
17 corresponds to a violation of state law that is a misdemeanor for  
18 which the maximum period of imprisonment is 93 days.