

HOUSE BILL No. 5824

September 18, 2014, Introduced by Rep. Shirkey and referred to the Committee on Local Government.

A bill to amend 1909 PA 279, entitled
"The home rule city act,"
(MCL 117.1 to 117.38) by adding section 5k.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5K. (1) A CITY SHALL NOT RETAIN OR ADOPT AN UNENFORCEABLE
2 ORDINANCE.

3 (2) IF, BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
4 ADDED THIS SECTION, A CITY ADOPTED AN UNENFORCEABLE ORDINANCE, THE
5 CITY SHALL REPEAL THAT UNENFORCEABLE ORDINANCE NO LATER THAN 120
6 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
7 SECTION.

8 (3) SUBJECT TO SUBSECTION (2), IF, AFTER THE EFFECTIVE DATE OF
9 THE AMENDATORY ACT THAT ADDED THIS SECTION, A CITY RETAINS OR

1 ADOPTS AN UNENFORCEABLE ORDINANCE, THE CITY SHALL REPEAL THAT
2 UNENFORCEABLE ORDINANCE NO LATER THAN 45 DAYS AFTER THE ORDINANCE
3 IS DETERMINED TO BE PREEMPTED BY STATE LAW BY EITHER FORMAL OPINION
4 OF THE ATTORNEY GENERAL OR FINAL DECISION OF A COURT OF COMPETENT
5 JURISDICTION.

6 (4) A CITY THAT VIOLATES SUBSECTION (3) IS LIABLE FOR A CIVIL
7 FINE OF NOT MORE THAN \$10,000.00, AND EVERY 30 DAYS THAT THE
8 VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE. A VIOLATION OF
9 THIS SECTION SHALL BE PROSECUTED BY THE ATTORNEY GENERAL. A CIVIL
10 FINE IMPOSED UNDER THIS SECTION IS PAYABLE TO THE STATE AND SHALL
11 BE CREDITED TO THE GENERAL FUND.

12 (5) AS USED IN THIS SECTION, "UNENFORCEABLE ORDINANCE" MEANS
13 AN ORDINANCE, THE CONTENT OF WHICH IS DETERMINED TO BE PREEMPTED BY
14 STATE LAW BY EITHER OF THE FOLLOWING:

15 (A) FORMAL OPINION OF THE ATTORNEY GENERAL.

16 (B) FINAL DECISION OF A COURT OF COMPETENT JURISDICTION.

17 Enacting section 1. This amendatory act takes effect January
18 1, 2015.