

Act No. 210
Public Acts of 2017
Approved by the Governor
December 19, 2017
Filed with the Secretary of State
December 20, 2017
EFFECTIVE DATE: December 20, 2017

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Reps. Crawford, Albert and Lower

ENROLLED HOUSE BILL No. 5304

AN ACT 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 14, 14a, and 15 (MCL 45.514, 45.514a, and 45.515), section 14 as amended by 2005 PA 208, section 14a as added by 2012 PA 466, and section 15 as amended by 1980 PA 7, and by adding section 15c.

The People of the State of Michigan enact:

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

(a) In a county that has a population of less than 1,500,000, for a salaried county executive, who shall be elected at large on a partisan basis, and for the county executive’s authority, duties, and responsibilities. In a county that has a population of 1,500,000 or more, a county charter adopted under this act must provide for a form of executive government described and adopted under section 11a.

(b) The election of a legislative body to be known as the county board of commissioners, whose term of office must be concurrent with that of state representatives, and for their authority, duties, responsibilities, and number, which must be not less than 5 or more than 21. The county board of commissioners shall provide by ordinance for their compensation and may increase or decrease their compensation. A change in compensation is not effective during the term of office for which the legislative body making the change was elected. The charter must also provide for the partisan election of members of the legislative body from single-member districts to be established by the county apportionment commission as created in section 5 and under the standards and guidelines established in section 5 for reapportionment based on the last official federal decennial census, effective at the first regular general election of the members of the legislative body occurring not less than 12 months after the completion and certification of the federal census. Each city and township must be apportioned so that it has the largest possible number of complete districts within its boundaries before any part of the city or township is joined to territory outside the boundaries of the city or township to form a district.

(c) The partisan election of a sheriff, a prosecuting attorney, a county clerk, a county treasurer, and a register of deeds, and for the authority of the county board of commissioners to combine the county clerk and register of deeds into 1 office as authorized by law.

(d) Except as provided in subdivision (c), the continuation of all existing county offices, boards, commissions, and departments whether established by law or by action of the county board of commissioners; the performance of their respective duties by other county offices, boards, commissions, and departments; or the discontinuance of these county offices, boards, commissions, and departments. Notwithstanding this subdivision in relation to existing county offices, boards, commissions, and departments, a county charter must insure the following:

(i) Except as otherwise provided under subsection (2), in a county that has a population of less than 1,500,000, the charter must not be in derogation of the powers and duties of the county road commission in the exercise of its statutory duties concerning the preservation of a county road system. The charter for these counties must provide for the creation of a commission that consists of not fewer than 3 or more than 5 members. Not less than 1 member of the commission must be a resident of a township within the county.

(ii) Except as otherwise provided in subsection (2), in a county that has a population of 1,500,000 or more, the charter must provide for the continuation of a county road system within the county. Notwithstanding any other provisions of this act, the charter described in this subparagraph must provide that responsibility for the determination of the expenditure of all funds for road construction and road maintenance and for carrying out the powers and duties pertaining to a county road system as provided in sections 9 to 32 of chapter IV of 1909 PA 283, MCL 224.9 to 224.32, is vested in a commission that consists of not fewer than 3 or more than 5 members. The charter must provide that 1 member of the commission is a resident of the most populous city in the county, 1 member is a resident of a city other than the most populous city within the county, and 1 member is a resident of a township within the county. The charter must provide that the commission is appointed by either the elected county executive or the chief administrative officer. Appointment to the commission must require advice and consent by a majority of the county board of commissioners elected and serving not more than 60 days after the appointment. If the county board of commissioners does not vote on the appointment within 60 days, the appointment is final. The charter may provide for the number of members and a fixed term of years for the members of the commission, but the charter must provide that the members of the commission may be removed at the pleasure of the elected county executive or the chief administrative officer. The charter must specify duties and procedures to assure that administrative decisions made for road construction are coordinated with administrative decisions made for other programs which relate to roads. As used in this subparagraph, "road construction" means all of the following:

(A) The building of a new road or street and the improving of an existing road or street by correction grades, drainage structures, width, alignment, or surface.

(B) The building of bridges or grade separations and the repair of these structures by strengthening, widening, and the replacement of piers and abutments.

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

(e) Subject to section 15c, the continuation and implementation of a system of pensions and retirement for county officers and employees in those counties that have a system in effect at the time of the adoption of the charter. The system provided under the charter must recognize the accrued rights and benefits of the officers and employees under the system then in effect. The charter must not infringe on nor be in derogation of those accrued rights and benefits. Subject to section 15c, the charter must not preclude future modification of the system.

(f) The continuation and implementation of a system of civil service in those counties having a system at the time of the adoption of the charter. The system of civil service provided under the charter must recognize the rights and status of persons under the civil service system then in effect. The charter must not infringe on nor be in derogation of those rights and that status. The charter must not preclude future modification of the system. Except as provided in subdivision (d), the charter must provide that the system of civil service be coordinated among the county offices, boards, commissions, and departments.

(g) That the general statutes and local acts of this state regarding counties and county officers will continue in effect except to the extent that this act permits the charter to provide otherwise, if the charter does in fact provide otherwise.

(h) That all ordinances of the county will remain in effect unless changed by the charter or an ordinance adopted under the charter.

(i) The power and authority to adopt, amend, and repeal any ordinance authorized by law or necessary to carry out any power, function, or service authorized by this act and by the charter.

(j) The power and authority to enter into any intergovernmental contract which is not specifically prohibited by law.

(k) The power and authority to join, establish, or form with any other governmental unit an intergovernmental district or authority for the purpose of performing a public function or service, which each is authorized to perform separately, the performance of which is not prohibited by law.

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

(m) The levy and collection of taxes, the fixing of an ad valorem property tax limitation of not to exceed 1% of the state equalized value of the taxable property within the county, and that the levy of taxes from within this ad valorem property tax limitation must not exceed, unless otherwise approved by the electors, the tax rate in mills, equal to the

number of mills allocated to the county either by a county tax allocation board or by a separate tax limitation under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a, in the year immediately preceding the year in which the county adopts a charter.

(n) Initiative and referendum on all matters within the scope of the county's power and authority; and for the recall of all county officials.

(o) Amendment or revision of the charter initiated either by action of the legislative body of the county or by initiatory process. An amendment or revision must not become effective unless the amendment or revision is submitted to the electorate of the county and approved by a majority of those voting.

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

(q) Annual preparation, review, approval, and adherence to a balanced budget in a manner which assures coordination among the county offices, boards, commissions, and departments, except as provided in subdivision (d).

(r) An annual audit by an independent certified public accountant of all county funds.

(s) That a county that incurs a budget deficit in any fiscal year shall prepare and submit a detailed and specific 5-year plan for short-term financial recovery and long-range financial stability to the governor and the legislature, before adoption of the next annual county budget, for review. The 5-year plan must include, but not be limited to, a projection of annual revenues and expenditures, an employee classification and pay plan, a capital improvements budget, and equipment replacement schedules.

(2) Subsection (1)(d) does not apply to a county in which the charter is amended to provide for an alternative method of carrying out the powers and duties which are otherwise provided by law for a board of county road commissioners.

(3) The county board of commissioners may by resolution provide for staggered terms of office for the road commissioners under subsection (1)(d) so that not more than 2 road commissioners' terms of office expire in the same year.

Sec. 14a. (1) Beginning September 30, 2014, each county road agency shall annually certify to the department that it satisfies 1 of the following conditions with respect to transportation employees:

(a) The county road agency has developed and publicized a transportation employee compensation plan that the county road agency intends to implement with any new, modified, or extended contract or employment agreements for transportation employees not covered under contract or employment agreement. The transportation employee compensation plan that each county road agency plans to achieve must be posted on a publicly accessible internet site and must be submitted to the department. Subject to section 15c, at a minimum, the transportation employee compensation plan must include all of the following:

(i) New transportation employee hires who are eligible for retirement plans are placed on retirement plans that cap annual employer contributions at 10% of base salary for transportation employees who are eligible for social security benefits. For transportation employees who are not eligible for social security benefits, the annual employer contribution is capped at 16.2% of base salary.

(ii) For defined benefit pension plans, a maximum multiplier of 1.5% for all transportation employees who are eligible for social security benefits, except, if postemployment health care is not provided, the maximum multiplier shall be 2.25%. For all transportation employees who are not eligible for social security benefits, a maximum multiplier of 2.25%, except, if postemployment health care is not provided, the maximum multiplier must be 3.0%. This subparagraph does not apply to years of service accrued before September 30, 2013, or to contracts entered into before September 30, 2013.

(iii) For defined benefit pension plans, final average compensation for all transportation employees is calculated using a minimum of 3 years of compensation and must not include more than a total of 240 hours of paid leave. Overtime hours must not be used in computing the final average compensation for a transportation employee. This subparagraph does not apply to years of service accrued before September 30, 2013, or to contracts entered into before September 30, 2013.

(iv) Health care premium costs for new transportation employee hires must include a minimum transportation employee share of 20%; or, an employer's share of the local health care plan costs must be cost competitive with the new state preferred provider organization health plan, on a per-transportation-employee basis.

(b) The county road agency complies with 1 of the following:

(i) A county road agency that offers medical benefits to its transportation employees or elected public officials shall certify to the department by September 30, 2014 that it is in compliance with the publicly funded health insurance contribution act, 2011 PA 152, MCL 15.561 to 15.569. For purposes of this subparagraph, dental and vision coverages are not considered medical benefits. The department shall develop a certification process and method for county road agencies to follow.

(ii) A county road agency that does not offer medical benefits to its transportation employees or elected public officials shall certify to the department by September 30, 2014 that it does not offer medical benefits to its transportation employees or elected public officials. For purposes of this subparagraph, dental and vision coverages are not considered medical benefits. The department shall develop a certification process and method for county road agencies to follow.

(2) If a county road agency does not make the certification required under subsection (1), the department may withhold all or part of the distributions to the county road agency from the Michigan transportation fund under 1951 PA 51, MCL 247.651 to 247.675. A withholding under this subsection must continue for the period of noncompliance with subsection (1) by the county road agency.

(3) A county road agency shall maintain a searchable website accessible by the public at no cost that includes, but is not limited to, all of the following:

(a) Current fiscal year budget.

(b) The number of active transportation employees of the county road agency by job classification and wage rate.

(c) A financial performance dashboard that contains information on revenues, expenditures, and unfunded liabilities. The county road agency may link to financial information provided by the Michigan transportation asset management council.

(d) The names and contact information for the governing body of the county road agency.

(e) A copy of the certification required by subsection (1).

(4) A county road agency may develop and operate its own website to provide the information required under subsection (3), or the county road agency may reference this state's central transparency website as the source for the information required under subsection (3). If a county road agency does not have a website, the county road agency may post the information required under subsection (3) on the website for the county within which the county road agency is located or on the website of a statewide road association of which the county road agency is a member.

(5) As used in this section:

(a) "County road agency" means a county road commission or a body that has the powers of a county road commission in a county that adopts a charter under this act. In addition, if a board of county road commissioners of a county is dissolved as provided in section 6 of chapter IV of 1909 PA 283, MCL 224.6, county road commission includes the county board of commissioners of that county.

(b) "Department" means the state transportation department.

(c) "Transportation employee" means an employee paid in whole or in part through revenues distributed under sections 12 to 13 of 1951 PA 51, MCL 247.662 to 247.663, or an employee who is engaged primarily in work funded through revenues distributed under sections 12 to 13 of 1951 PA 51, MCL 247.662 to 247.663.

Sec. 15. A county charter adopted under this act may provide for 1 or more of the following:

(a) The office of corporation counsel, public defender, auditor general, and all other offices, boards, commissions, or departments necessary for the efficient operation of county government. The charter may also provide for the power and authority to establish, by ordinance, other offices, boards, commissions, and departments as may become necessary.

(b) That the legislative body of any unit of government that is wholly or partially within the county may transfer, subject to the approval of the legislative body of the county and on mutually agreed conditions, a municipal function or service to the county if the performance of the function or service by the county is not specifically prohibited by law, and if the function or service is offered on a countywide basis.

(c) The authority to perform at the county level any function or service not prohibited by law, including, but not limited to, police protection, fire protection, planning, zoning, education, health, welfare, recreation, water, sewer, waste disposal, transportation, abatement of air and water pollution, civil defense, and any other function or service necessary or beneficial to the public health, safety, and general welfare of the county. Powers granted solely by charter may not be exercised by the charter county in a local unit of government that is exercising a similar power without the consent of the local legislative body. The cost of a service authorized by charter to be performed by the county, may be determined by negotiation between the local unit of government and the charter county and the cost must be charged to the local unit of government or area benefited by the service, unless it is rendered on a countywide basis in which event the cost may be paid from the general fund of the county. If a function exercised by a local unit of government is transferred to the county and becomes a county function financed through the general fund of the county, the county shall reimburse a local unit of government a negotiated sum representing the value of the transferred capital assets of the function owned by and paid for by the local unit of government, including outstanding bonded indebtedness of the local unit of government.

(d) The establishment and maintenance, either within or outside of the county corporate limits, of roads, parks, cemeteries, hospitals, medical facilities, airports, ports, jails, water supply and transmission facilities, sewage transmission and disposal systems, all public works, or other types of facilities necessary to preserve and provide effectively for the public health, safety, and general welfare of the county.

(e) The power and authority to levy and collect taxes, fees, rents, tolls, or excises, the levy and collection of which is authorized by law. The county may not levy a tax on income unless authorized by law.

(f) Subject to section 15c, a system of retirement for county officers and employees.

(g) A classified civil service or merit system for county officers and employees, except those officers and employees who are expressly exempted from civil service by either the state constitution of 1963 or law.

(h) The election or appointment of a drain commissioner.

Sec. 15c. If a county provides a system of retirement for its officers and employees under this act, the system of retirement is subject to the protecting local government retirement and benefits act.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 686 of the 99th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: Senate Bill No. 686, referred to in enacting section 1, was filed with the Secretary of State December 20, 2017, and became 2017 PA 202, Imd. Eff. Dec. 20, 2017.