

# HOUSE BILL No. 5313

November 30, 2017, Introduced by Reps. VerHeulen, Albert, Lower and Crawford and referred to the Committee on Michigan Competitiveness.

A bill to amend 1909 PA 279, entitled "The home rule city act," by amending sections 4i and 4p (MCL 117.4i and 117.4p), section 4i as amended and section 4p as added by 2014 PA 183, and by adding section 4u.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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

4           (b) Regulating and restricting the locations of oil and  
5 gasoline stations.

6           (c) The establishment of districts or zones within which the  
7 use of land and structures, the height, area, size, and location of  
8 buildings, the required open spaces for light and ventilation of

1 buildings, and the density of population may be regulated by  
2 ordinance. The zoning ordinance provisions applicable to 1 or more  
3 districts may differ from those applicable to other districts. If a  
4 city is incorporated, or if territory is annexed to a city  
5 incorporated under this act, the zoning ordinance provisions  
6 applicable to the territory within the newly incorporated city or  
7 the annexed territory ~~shall~~**MUST** remain in effect for 2 years after  
8 the incorporation or annexation unless the legislative body of the  
9 city lawfully adopts other zoning ordinance provisions.

10 (d) The regulation of trades, occupations, and amusements  
11 within city boundaries, if the regulations are not inconsistent  
12 with state or federal law, and the prohibition of trades,  
13 occupations, and amusements that are detrimental to the health,  
14 morals, or welfare of the inhabitants of that city.

15 (e) The regulation or prohibition of public nudity within city  
16 boundaries. As used in this subdivision, "public nudity" means  
17 knowingly or intentionally displaying in a public place, or for  
18 payment or promise of payment by any person including, but not  
19 limited to, payment or promise of payment of an admission fee, any  
20 individual's genitals or anus with less than a fully opaque  
21 covering or a female individual's breast with less than a fully  
22 opaque covering of the nipple and areola. Public nudity does not  
23 include any of the following:

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

26 (ii) Material as **THAT TERM IS** defined in section 2 of 1984 PA  
27 343, MCL 752.362.

1 (iii) Sexually explicit visual material as **THAT TERM IS**  
2 defined in section 3 of 1978 PA 33, MCL 722.673.

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

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

7 (h) A system of civil service for city employees, including  
8 employees of that city's board of health, and employees of any jail  
9 operated or maintained by the city. Charter provisions providing  
10 for a system of civil service for employees of a local health board  
11 are valid and effective.

12 (i) Subject to ~~section~~**SECTIONS** 4p **AND 4U**, a system of  
13 compensation for city employees and for the dependents of city  
14 employees in the case of disability, injury, or death of city  
15 employees.

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

18 (k) The punishment of persons who violate city ordinances  
19 other than ordinances described in section 4/. The penalty for a  
20 violation of such a city ordinance ~~shall~~**MUST** not exceed a fine of  
21 \$500.00 or imprisonment for 90 days, or both. However, unless  
22 otherwise provided by law, the ordinance may provide that a  
23 violation of the ordinance is punishable by imprisonment for not  
24 more than 93 days or a fine of not more than \$500.00, or both, if  
25 the violation substantially corresponds to a violation of state law  
26 that is a misdemeanor for which the maximum period of imprisonment  
27 is 93 days. In addition, a city may adopt section 625(1)(c) of the

1 Michigan vehicle code, 1949 PA 300, MCL 257.625, by reference in an  
2 adopting ordinance and shall provide that a violation of that  
3 ordinance is punishable by 1 or more of the following:

4 (i) Community service for not more than 360 hours.

5 (ii) Imprisonment for not more than 180 days.

6 (iii) A fine of not less than \$200.00 or more than \$700.00.

7 Sec. 4p. (1) ~~For~~ **SUBJECT TO SECTION 4U, FOR** a city with a  
8 population of more than 600,000 or that has discharged  
9 \$1,000,000,000.00 of pension liabilities in bankruptcy, or both,  
10 that provides a defined benefit plan as part of a system of  
11 compensation under section 4i, all of the following apply:

12 (a) Except as otherwise provided in a plan for adjustment, the  
13 calculation of a pension benefit under the defined benefit plan  
14 ~~shall~~ **MUST** only include base pay. This subdivision does not apply  
15 to years of service accrued before January 1, 2015.

16 (b) Except as otherwise provided in a plan for adjustment, the  
17 annual pension benefit ~~shall~~ **MUST** not include an additional payment  
18 based solely on the rate of investment return earned on the  
19 retirement system's assets. This subdivision does not prohibit the  
20 fulfillment of rights and benefits earned under a retirement system  
21 agreed to in a plan for adjustment. As used in this subdivision, a  
22 "retirement system" means a public employee retirement system  
23 established by a city described in this subsection.

24 (2) ~~Except~~ **SUBJECT TO SECTION 4U AND EXCEPT** as otherwise  
25 provided in a plan for adjustment, for a city with a population of  
26 more than 600,000 or that has discharged \$1,000,000,000.00 of  
27 pension liabilities in bankruptcy, or both, that provides

1 retirement benefits for employees first hired after July 1, 2023 as  
2 part of a system of compensation under section 4i, either of the  
3 following applies for the employees first hired after July 1, 2023:

4 (a) The city may offer retirement plans so long as the city  
5 does not contribute more than 7% of the employee's base pay to an  
6 appropriate retirement account.

7 (b) The city may offer the same retirement plan as provided in  
8 a plan for adjustment.

9 (3) ~~For~~ **SUBJECT TO SECTION 4U, FOR** a city with a population of  
10 more than 600,000 or that has discharged \$1,000,000,000.00 of  
11 pension liabilities in bankruptcy, or both, that provides  
12 retirement health care insurance benefits for new employees after  
13 July 1, 2023 as part of a system of compensation under section 4i,  
14 the city shall not contribute more than 2% of the employee's base  
15 pay or the percentage a qualified participant's employer  
16 contributes on behalf of a qualified participant under section  
17 68b(1) of the state employees' retirement act, 1943 PA 240, MCL  
18 38.68b, whichever percentage is greater, to an appropriate tax-  
19 deferred account.

20 (4) Not later than January 1, 2024, and each January 1 after  
21 2024, for a city with a population of more than 600,000 or that has  
22 discharged \$1,000,000,000.00 of pension liabilities in bankruptcy,  
23 or both, that provides retirement benefits as part of a system of  
24 compensation under section 4i, the city or a retirement system  
25 established by the city, as applicable, shall submit a  
26 certification of its compliance with this section to the financial  
27 review commission created under the Michigan financial review

1 commission act, 2014 PA 181, 141.1631 TO 141.1643.

2 (5) As used in this section:

3 (a) "Base pay" means the remuneration paid an employee on  
4 account of the employee's services rendered to a city described in  
5 this section. Base pay does not include any of the following:

6 (i) Payment for overtime services.

7 (ii) Remuneration paid in lieu of accumulated sick leave.

8 (iii) Remuneration received as a bonus.

9 (iv) Payment for accrued vacation pay.

10 (v) One-time lump-sum payments.

11 (vi) The cost of fringe benefits, including, but not limited  
12 to, a medical benefit plan.

13 (b) "Medical benefit plan" means that term as defined in  
14 section 2 of the publicly funded health insurance contribution act,  
15 2011 PA 152, MCL 15.562.

16 (c) "Member" means a member of a defined benefit plan  
17 established by a city described in subsection (1).

18 (d) "Plan for adjustment" means a plan for the adjustment of  
19 debts entered and approved by a federal bankruptcy court.

20 (e) "Retirement health care insurance benefit" means  
21 hospitalization and medical insurance, dental coverage, vision  
22 coverage, and any other health care insurance provided for a  
23 retirant or dependent of a retirant under a system of compensation  
24 that includes retirement benefits established under section 4i.

25 **SEC. 4U. IF A CITY PROVIDES RETIREMENT BENEFITS AS PART OF A**  
26 **SYSTEM OF COMPENSATION UNDER SECTION 4I, THE RETIREMENT BENEFITS**  
27 **ARE SUBJECT TO THE PROTECTING LOCAL GOVERNMENT RETIREMENT AND**

1 **BENEFITS ACT. AS USED IN THIS SECTION, "RETIREMENT BENEFIT" MEANS**  
2 **THAT TERM AS DEFINED IN SECTION 3 OF THE PROTECTING LOCAL**  
3 **GOVERNMENT RETIREMENT AND BENEFITS ACT.**

4 Enacting section 1. This amendatory act does not take effect  
5 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5298 (request no.  
6 00251'17 \*) of the 99th Legislature is enacted into law.