

Act No. 214
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. VerHeulen, Albert, Lower and Crawford

ENROLLED HOUSE BILL No. 5313

AN ACT to amend 1909 PA 279, entitled “An act to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; to prescribe penalties and provide remedies; and to repeal acts and parts of acts on specific dates,” 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:

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

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

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

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

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

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

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

(ii) Material as that term is defined in section 2 of 1984 PA 343, MCL 752.362.

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

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

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

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

(i) Subject to sections 4p and 4u, a system of compensation for city employees and for the dependents of city employees in the case of disability, injury, or death of city employees.

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

(k) The punishment of persons who violate city ordinances other than ordinances described in section 4l. The penalty for a violation of such a city ordinance must not exceed a fine of \$500.00 or imprisonment for 90 days, or both. However, unless otherwise provided by law, the ordinance may provide that a violation of the ordinance is punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. In addition, a city may adopt section 625(1)(c) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, by reference in an adopting ordinance and shall provide that a violation of that ordinance is punishable by 1 or more of the following:

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

(ii) Imprisonment for not more than 180 days.

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

Sec. 4p. (1) Subject to section 4u, for a city with a population of more than 600,000 or that has discharged \$1,000,000,000.00 of pension liabilities in bankruptcy, or both, that provides a defined benefit plan as part of a system of compensation under section 4i, all of the following apply:

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

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

(2) Subject to section 4u and except as otherwise provided in a plan for adjustment, for a city with a population of more than 600,000 or that has discharged \$1,000,000,000.00 of pension liabilities in bankruptcy, or both, that provides retirement benefits for employees first hired after July 1, 2023 as part of a system of compensation under section 4i, either of the following applies for the employees first hired after July 1, 2023:

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

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

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

(4) Not later than January 1, 2024, and each January 1 after 2024, for a city with a population of more than 600,000 or that has discharged \$1,000,000,000.00 of pension liabilities in bankruptcy, or both, that provides retirement benefits as part of a system of compensation under section 4i, the city or a retirement system established by the city, as applicable, shall submit a certification of its compliance with this section to the financial review commission created under the Michigan financial review commission act, 2014 PA 181, 141.1631 to 141.1643.

(5) As used in this section:

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

(i) Payment for overtime services.

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

(iii) Remuneration received as a bonus.

(iv) Payment for accrued vacation pay.

(v) One-time lump-sum payments.

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

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

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

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

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

Sec. 4u. If a city provides retirement benefits as part of a system of compensation under section 4i, the retirement benefits are subject to the protecting local government retirement and benefits act. As used in this section, "retirement benefit" means that term as defined in section 3 of 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