

FEB 16 2004
LOCAL GOVERNMENT

HOUSE FILE 2250
BY SCHICKEL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to shared governmental functions among local
2 governments by allowing certain cities and counties to be
3 certified as freedom communities, affecting income and
4 property taxation and fee-setting authority within such
5 communities, providing other incentives for such
6 certification, and by modifying the establishment and
7 authority of community clusters, and providing an effective
8 date.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

FREEDOM COMMUNITIES

Section 1. NEW SECTION. 332.1 PURPOSE.

The purpose of this chapter is to encourage the merger of local governmental units and the sharing of the provision of service by local governments and to provide local governments with flexibility to operate once merger or sharing has occurred. It is further the purpose of this chapter to increase accountability for provision of services to the residents of the community.

Sec. 2. NEW SECTION. 332.2 DEFINITIONS.

- 1. "Municipality" means a city or county.
- 2. "Political subdivision" means a city, county, school district, or township.

Sec. 3. NEW SECTION. 332.3 ELIGIBILITY FOR FREEDOM COMMUNITY STATUS.

- 1. A municipality may achieve freedom community status if it meets the qualifications of this section and section 332.4.
- 2. To be eligible for freedom community status, a city or county shall have accomplished one of the following:
 - a. Adopted by referendum a charter for city-county consolidation pursuant to sections 331.247 through 331.252.
 - b. Adopted by referendum a charter for a community commonwealth pursuant to sections 331.260 through 331.263.
 - c. Adopted by referendum a charter for multicounty consolidation pursuant to sections 331.253 through 331.256.
 - d. Adopted by referendum a charter for a consolidated metropolitan corporation pursuant to chapter 373.
 - e. Approved by referendum establishment of a regional metropolitan service area pursuant to section 28E.40.
 - f. Entered into at least one chapter 28E agreement with one or more political subdivisions if the duration of the agreement is at least five years and the agreement results in the shared provision of services by two or more political subdivisions the budgeted expenditures for which equal at

1 least fifty percent of budgeted expenditures for all services
2 provided by at least one of the parties to the 28E agreement.
3 A chapter 28E agreement includes a unified law enforcement
4 district established pursuant to sections 28E.21 through
5 28E.30 and a community cluster established pursuant to
6 sections 28E.35 through 28E.40. Chapter 28E agreements
7 entered into before the effective date of this Act qualify as
8 agreements under this paragraph if such agreements are to be
9 in effect for five years following the effective date of this
10 Act.

11 g. Assumed the exercise of powers and duties relating to
12 emergency services pursuant to section 331.385 powers and
13 duties relating to cemeteries pursuant to section 331.325.

14 Sec. 4. NEW SECTION. 332.4 APPLICATION FOR FREEDOM
15 COMMUNITY STATUS -- GRANTS -- PUBLIC HEARING.

16 1. A municipality must apply to the department of
17 management to receive certification as a freedom community.
18 The application must show that the municipality has done all
19 of the following:

20 a. Qualifies as a freedom community pursuant to section
21 332.3. The municipality shall submit with the application for
22 freedom community status an abstract of the votes on the
23 referendum cited in section 332.3, subsection 2, or a summary
24 and signature page of the chapter 28E agreement along with
25 documentation showing that the agreement results in shared
26 services meeting the requirements of section 332.3, subsection
27 2, paragraph "f", or a copy of the ordinance required by
28 section 331.325 and a copy of the resolution required by
29 section 331.385.

30 b. Prepared plans for establishment and operation of a
31 citizen commission pursuant to section 332.7.

32 c. Prepared plans for development of a format for
33 tailoring the accountability report required by section 332.6
34 to include information specific to the proposed freedom
35 community area.

1 2. The application of a municipality for freedom community
2 status may include an application for a grant from the local
3 government innovations fund for technical assistance or
4 facilitation of efforts to achieve freedom community status,
5 including financial assistance to pay for a commission process
6 required by statute and necessary to become eligible in
7 section 332.3, subsection 2, paragraphs "a" through "e". A
8 municipality applying for freedom community status and
9 submitting the documents required by subsection 1, paragraph
10 "a", may receive a grant from the local government innovations
11 fund even if freedom community status is denied.

12 3. Prior to submitting an application for freedom
13 community status to the department of management, the
14 governing body of the municipality shall hold a public hearing
15 on the application. Notice of the date and time of the public
16 hearing and a summary of the application shall be published in
17 a newspaper of general circulation in the municipality not
18 less than four nor more than twenty days before the hearing.
19 The governing body shall receive comments on the application
20 from those attending the public hearing.

21 4. The department of management shall notify a
22 municipality when it has received the municipality's
23 application for certification as a freedom community. The
24 department shall grant or deny freedom community certification
25 to a municipality within forty-five days of receiving the
26 application. The department shall immediately notify the
27 municipality of the action taken on the application.

28 5. After certification as a freedom community has been
29 granted by the department of management, the certification
30 must be approved by the electors of the municipality before
31 taking effect. The governing body of the municipality shall
32 direct the county commissioner of elections to submit the
33 proposition at a special election. The special election may
34 be the same day as the general election if the municipality is
35 a county and may be the same day as the regular city election

1 if the municipality is a city. The proposition is adopted if
2 it receives a favorable majority of the votes cast on the
3 proposition at the election.

4 Sec. 5. NEW SECTION. 332.5 DEPARTMENT OF MANAGEMENT --
5 DUTY TO MONITOR -- ANNUAL REPORT.

6 Once a municipality has been certified as a freedom
7 community, the department of management shall monitor and
8 annually report on tax collections, other revenue, and
9 expenditures of the freedom community and compare such
10 information with similar information of local governments that
11 have not applied for or been granted freedom community status.
12 If provided in a timely manner, a summary of these comparisons
13 may be included in the accountability report in section 332.6.
14 The department shall submit a summary of the report for the
15 most recently ended fiscal year to the general assembly by
16 January 15 of each year.

17 Sec. 6. NEW SECTION. 332.6 ACCOUNTABILITY REPORT.

18 1. A municipality certified as a freedom community shall
19 report every six months on progress made on the indicators and
20 targets identified by the citizen commission pursuant to
21 section 332.7. The report may include updates on progress
22 made in planning and goal setting for additional mergers of
23 services, joint operations of facilities, or reorganization of
24 government.

25 2. The report shall be mailed to residents of the freedom
26 community area and to the department of management.

27 3. The department of management, in consultation with the
28 city finance committee and the county finance committee, shall
29 formulate standards for uniform information to be included in
30 the report. The standards for reporting must emphasize
31 simplified and clear reporting. The standards for reporting
32 must allow for flexibility for communities to report
33 information specific to their community.

34 Sec. 7. NEW SECTION. 332.7 CITIZEN COMMISSION.

35 1. The governing body of a municipality that is certified

1 as a freedom community shall establish a citizen commission
2 charged with planning and setting goals for the freedom
3 community. The citizen commission shall establish an agenda
4 for the future relating to provision of services and operation
5 of facilities in the freedom community. The commission shall
6 establish key performance indicators and targets in at least
7 eight areas of service delivery that have been determined to
8 be services that are critical to the functioning of the
9 municipality.

10 2. Municipalities whose eligibility for freedom community
11 status was a result of a chapter 28E agreement between
12 political subdivisions may establish one citizen commission
13 for all municipalities subject to the agreement.

14 3. The citizen commission shall be comprised of residents
15 of the freedom community appointed by the governing body of
16 the municipality or governing bodies of the municipalities, if
17 applicable, comprising the freedom community. The membership
18 of the citizen commission shall also include representatives
19 of the governing body, or governing bodies, if applicable, of
20 the freedom community.

21 4. The citizen commission shall hold an organizational
22 meeting within thirty days of appointment of members. At the
23 organizational meeting, the citizen commission shall elect a
24 chairperson to serve for one year. The citizen commission
25 shall meet at the call of the chairperson, which shall not be
26 less than twice annually.

27 5. The terms of citizen commission members and other
28 matters relating to the operation of the citizen commission
29 shall be determined by the governing body of the freedom
30 community and such structure and operational determinations
31 made by the citizen commission shall be included with the
32 application submitted pursuant to section 332.4.

33 6. The citizen commission shall report annually to the
34 governing body of each municipality comprising the freedom
35 community. The governing body shall, immediately upon receipt

1 of the report, certify to the department of management that it
2 has received the report of the citizen committee.

3 Sec. 8. NEW SECTION. 332.8 COMPLIANCE.

4 1. The governing body of a municipality certified as a
5 freedom community that fails to comply with the planning and
6 reporting requirements in sections 332.6 and 332.7 shall be
7 notified by the department of that fact. The department's
8 notification shall inform the governing body that it must
9 rectify the areas of noncompliance within twelve months or
10 freedom community certification will be withdrawn. The
11 department shall withdraw certification for noncompliance
12 after twelve months.

13 2. After certification as a freedom community has been
14 approved at election, the governing body shall submit to the
15 department of management a report showing the per capita tax
16 and fee collections of the municipality for the fiscal year
17 immediately preceding the first fiscal year under which the
18 municipality operates as a freedom community. For each
19 subsequent fiscal year, the municipality shall provide a
20 report showing the per capita tax and fee collections of the
21 municipality. If, after applying inflation and population
22 increases or decreases to such per capita figures, the
23 department determines that the municipality has increased tax
24 and fee collections per capita as a freedom community, the
25 department shall notify the municipality that freedom
26 community certification shall be withdrawn beginning with the
27 fiscal year following the calendar year in which the
28 determination is made. The municipality may apply to the
29 department to have withdrawal of certification delayed for
30 another fiscal year.

31 Sec. 9. NEW SECTION. 332.9 FREEDOM COMMUNITY FINANCIAL
32 FLEXIBILITIES.

33 1. The governing body of a municipality certified as a
34 freedom community may, by resolution, and pursuant to section
35 332.10, impose an income surtax.

1 2. If a county that is a freedom community wishes to
2 impose a countywide local option sales tax, the county may do
3 so by resolution of the board of supervisors and by approval
4 of the proposition to impose the sales tax by a majority of
5 persons in the county voting on the proposition voting in
6 favor of such proposition, notwithstanding the election
7 requirements of section 422B.8. A freedom community shall not
8 impose a local option sales tax if imposition of such a tax
9 has already been approved under chapter 422B.

10 3. A municipality certified as a freedom community is
11 authorized to adopt ordinances charging fees for services if
12 the fee charged is directly related to the service provided.
13 Unpaid fees shall be treated as unpaid property taxes pursuant
14 to chapters 446 through 448.

15 4. A municipality certified as a freedom community may
16 adopt an ordinance providing for a schedule of impact fees to
17 be paid by developers of real property in the freedom
18 community area. The impact fee shall be used by the freedom
19 community to alleviate the negative impact on the environment
20 caused by the development for which the impact fee is charged
21 and for development of parks and recreation areas in the area
22 being developed.

23 5. In lieu of the contracts provided for in section
24 364.19, a municipality certified as a freedom community may
25 adopt an ordinance requiring payments in lieu of taxes by a
26 person or entity whose property is totally or partially exempt
27 from taxation under chapter 404, section 427.1, or section
28 427B.1, in order for the municipality to provide specified
29 services to that person or entity including but not limited to
30 police protection, fire protection, street maintenance, and
31 waste collection. The ordinance shall contain a schedule of
32 payments intended to treat types of property equally. The
33 payment requirement shall terminate as of the date previously
34 exempt property becomes subject to taxation. Delinquent
35 payments shall draw interest in the same amount and in the

1 same manner as delinquent property taxes draw interest
2 pursuant to section 445.39.

3 Sec. 10. NEW SECTION. 332.10 INCOME SURTAX FOR FREEDOM
4 COMMUNITIES.

5 1. a. The governing body of a municipality certified as a
6 freedom community may impose an income surtax on state
7 individual income tax in the municipality as provided in this
8 section. An income surtax shall not be imposed in the
9 municipality if the governing body has in effect a resolution
10 to exceed property tax levy rate limits pursuant to section
11 332.11, subsection 1.

12 b. The governing body of the municipality certified as a
13 freedom community shall hold a public hearing on the
14 proposition. The governing body shall set forth its proposal
15 in a resolution and shall publish the notice of the time and
16 place of a public hearing on the resolution. Notice of the
17 time and place of the public hearing shall be published not
18 less than four nor more than twenty days before the public
19 hearing in a newspaper of general circulation in the
20 municipality. Notice of the time and date of the public
21 hearing shall also be placed on the internet website of the
22 municipality.

23 c. At the hearing, or no later than thirty days after the
24 date of the hearing, the governing body shall take action to
25 adopt a resolution to impose an income surtax for a period not
26 exceeding five years. If the resolution is adopted, the
27 governing body shall certify its action to the department of
28 management.

29 2. For each budget year, the governing body shall
30 determine the percent of income surtax that will be imposed
31 for the budget, expressed as full percentage points, not to
32 exceed ten percent. The governing body shall certify to the
33 department of management, on or before February 1, the percent
34 of income surtax to be imposed for the budget year. The
35 department shall determine the amount of income surtax to be

1 collected based upon the most recent figures available for the
2 municipality's state individual income tax paid and shall
3 certify to the financial officer of the municipality the
4 estimate of income surtax to be collected for the budget year
5 and shall certify to the director of revenue the amount of
6 income surtax to be imposed for the budget year, expressed as
7 a percentage.

8 3. The income surtax shall be imposed on the state
9 individual income tax for the calendar year during which the
10 municipality's budget year begins, or for a taxpayer's fiscal
11 year ending during the second half of that calendar year or
12 the first half of the succeeding calendar year, and shall be
13 imposed on all individuals residing in the municipality on the
14 last day of the applicable tax year. As used in this section,
15 "state individual income tax" means the taxes computed under
16 section 422.5, less the credits allowed in sections 422.11A,
17 422.11B, 422.12, and 422.12B.

18 4. a. The director of revenue shall administer the income
19 surtax imposed under this section, and sections 422.20, 422.22
20 to 422.31, 422.68, and 422.72 to 422.75 shall apply with
21 respect to administration of the income surtax.

22 b. The income surtax shall be made a part of the Iowa
23 individual income tax return subject to the conditions and
24 restrictions set forth in section 422.21. If the municipality
25 imposing the income surtax is a city, the director of revenue
26 shall provide on income tax returns a requirement that each
27 person required to file a return numerically identify the city
28 of residence of the taxpayer.

29 5. a. A freedom community income surtax fund is created
30 in the office of the treasurer of state. Income surtaxes
31 collected by the department of revenue under this section
32 shall be deposited in the freedom community income surtax fund
33 to the credit of each municipality imposing the income surtax.
34 A separate accounting of each surtax, by municipality, shall
35 be maintained.

1 b. On or before November 1 of each year in which the
2 income surtax is collected, the director of the department of
3 administrative services shall draw warrants in payment of the
4 surtaxes collected in each municipality imposing the income
5 surtax.

6 c. Income surtax moneys received or refunded after
7 November 1 shall be deposited in or withdrawn from the general
8 fund of the state and shall be considered part of the cost of
9 administering the income surtax.

10 6. On or before October 20 of each year, the director of
11 revenue shall make an accounting of the income surtax
12 collected under this section applicable to tax returns for the
13 last preceding calendar year, or for a taxpayer's fiscal year
14 ending during the second half of that calendar year, or the
15 first half of the succeeding calendar year, from taxpayers in
16 each municipality in the state that has imposed the income
17 surtax, and shall certify to the department of management the
18 amount of total income surtax credited from the taxpayers of
19 each municipality.

20 7. a. If the governing body of a municipality that has
21 imposed the income surtax wishes to continue imposition of the
22 income surtax for an additional five years, the governing body
23 must, on or before February 15 of the last calendar year in
24 which the income surtax is to be imposed, adopt a resolution
25 calling for imposition for an additional five years.
26 Immediately after adoption of the resolution, the governing
27 body shall direct the county commissioner of elections to
28 provide for submitting the proposition of whether the income
29 surtax shall be extended for five more years. The proposition
30 must be voted on during the fifth calendar year of imposition
31 of the current income surtax. The proposition may be voted on
32 at a special election or at the regular city election if the
33 municipality is a city, or at the general election, if the
34 municipality is a county, if those elections fall in the fifth
35 calendar year.

1 b. If necessary, the election shall be conducted pursuant
2 to section 47.2, subsections 2 through 4. Notice of the
3 proposition shall be published at least twice in a newspaper
4 as specified in section 331.305 or 362.3, as applicable, prior
5 to the date of the election. The first notice shall appear as
6 early as practicable after the governing body has decided to
7 seek continuance of the income surtax.

8 c. The proposition is adopted if a majority of those
9 voting on the proposition at the election approves it. After
10 the initial five years of imposition of an income surtax, the
11 governing body may request a vote on the imposition of an
12 income surtax every five years.

13 Sec. 11. NEW SECTION. 332.11 ADDITIONAL FREEDOM
14 COMMUNITY FINANCIAL FLEXIBILITIES -- PROPERTY TAX.

15 1. In lieu of imposing an income surtax under section
16 332.9, subsection 1, a municipality certified as a freedom
17 community may, by resolution, declare itself exempt from the
18 levy rate limitations in section 331.423, if the freedom
19 community is a county, and in section 384.1, if the freedom
20 community is a city.

21 2. A municipality certified as a freedom community may
22 adopt ordinances creating special taxing districts for
23 delivering services and may impose property tax levies on
24 property located within the districts, including the delivery
25 of a service jointly with another political subdivision.

26 3. Notwithstanding section 384.12, a city certified as a
27 freedom community may, for each fiscal year, certify a tax
28 pursuant to section 384.12 without the necessity of having the
29 tax approved by referendum.

30 4. A municipality certified as a freedom community may,
31 for each fiscal year, certify to the county auditor the
32 percentage of the budget for which a tax will be levied
33 against the assessed valuation of land subject to tax and the
34 percentage of the budget that will be levied against the
35 assessed valuation of the taxable real property other than

1 land subject to tax. If the municipality has a limit on the
2 rate of the levy, that limit shall only mean that the total
3 amount of property tax revenues that the municipality may
4 collect from all taxable real property equals the product of
5 that levy rate limit times the total assessed value of all
6 taxable real property.

7 5. The county board of supervisors of a county certified
8 as a freedom community may direct the county auditor to
9 establish a rural debt service tax district for the purpose of
10 issuing general obligation bonds for rural county services.
11 The rural debt service tax district shall include only
12 unincorporated portions of the county. The county's debt
13 service tax levy for the general obligation bonds for rural
14 county services shall be levied only against taxable property
15 within the county which is included within the boundaries of
16 the rural debt service tax district. The board may issue
17 general obligation bonds for general county purposes and
18 essential county purposes in the rural debt service tax
19 district if such stated purpose is intended to exclusively
20 benefit those persons residing in the county outside of
21 incorporated city areas. General obligation bonds for rural
22 county services are subject to approval at an election held in
23 the manner provided in section 331.442, subsections 1 through
24 4, except that only those registered voters residing within
25 the rural service area tax district may vote on the
26 proposition.

27 Sec. 12. NEW SECTION. 332.12 WAIVER OF STATUTORY
28 REQUIREMENTS AND STATE RULES.

29 1. A municipality certified as a freedom community may
30 apply to the department of management for a waiver of a
31 statutory requirement relating to budgets or delivery of a
32 service. The application shall state the alternative method
33 proposed by the municipality relating to budgeting or service
34 delivery.

35 2. A municipality certified as a freedom community may

1 apply to a department of state government for a waiver of
2 rules adopted by the department relating to delivery of a
3 service or implementation of a statutory requirement. The
4 application shall state an alternative method proposed by the
5 municipality. A department may adopt rules that specifically
6 address requirements of municipalities certified as freedom
7 communities relating to delivery of a service or
8 implementation of a statutory requirement that result in
9 greater authority and flexibility for the freedom community.

10 Sec. 13. EFFECTIVE DATE. This division of this Act, being
11 deemed of immediate importance, takes effect upon enactment.

12 DIVISION II

13 COMMUNITY CLUSTERS

14 Sec. 14. Section 28E.35, Code 2003, is amended to read as
15 follows:

16 28E.35 DEFINITIONS.

17 As used in this division unless the context otherwise
18 requires:

19 1. "Community cluster" means a cooperative community unit
20 established pursuant to this chapter for the joint exercise of
21 powers by two or more governmental units and for sharing one
22 or more governmental functions between two or more
23 governmental units participating in a community cluster.

24 2. "Governing board" means the governing board of a
25 community cluster appointed pursuant to section 28E.37.

26 ~~2.~~ 3. "Governmental unit" means a city, county, township,
27 school district, merged area, or special taxing district.

28 4. "Shared governmental function" includes, but is not
29 limited to, joint delivery of services, joint operation of
30 facilities, joint development of infrastructure, or joint
31 fostering of economic development.

32 Sec. 15. Section 28E.36, Code 2003, is amended to read as
33 follows:

34 28E.36 ESTABLISHMENT OF COMMUNITY CLUSTER.

35 Two or more governmental units located in the state may, by

1 resolution of each governmental unit, establish a community
2 cluster by entering into an agreement for the joint exercise
3 of powers pursuant to this chapter to make more efficient use
4 of their resources by providing for joint functions, services,
5 facilities, development of infrastructure and for revenue
6 sharing, and to foster economic development shared
7 governmental functions between two or more of the governmental
8 units participating in the community cluster.

9 A community cluster and its governing board shall have all
10 the rights, powers, duties, privileges, and immunities of a
11 governmental unit and governmental unit governing body to the
12 extent that such rights, powers, duties, privileges, and
13 immunities relate to shared governmental functions of the
14 governmental units participating in the community cluster.

15 Sec. 16. Section 28E.37, Code 2003, is amended by striking
16 the section and inserting in lieu thereof the following:

17 28E.37 COMMUNITY CLUSTER GOVERNING BOARD.

18 The governing body of each governmental unit participating
19 in a community cluster shall appoint two of its members to a
20 community cluster governing board. However, an alternative
21 board composition may be agreed upon by the participating
22 governmental units. A member of the governing board shall
23 serve for two years or until the member's term on the
24 governing body of the governmental unit expires, whichever is
25 earlier. A vacancy on the governing board shall be filled in
26 the same manner as the original appointment. A member of the
27 governing board shall not receive compensation for service on
28 the governing board.

29 Sec. 17. Section 28E.38, Code 2003, is amended by striking
30 the section and inserting in lieu thereof the following:

31 28E.38 POWERS AND DUTIES OF GOVERNING BOARD -- EXISTING
32 BONDED INDEBTEDNESS -- TAXING AUTHORITY.

33 1. The governing board shall identify governmental
34 functions, services, facilities, development of
35 infrastructure, or economic development efforts that will be

1 shared or jointly provided or operated within the community
2 cluster.

3 2. The governing board shall establish an official name
4 for the community cluster.

5 3. The governing board may provide for the adjustment of
6 existing bonded indebtedness and other obligations to the
7 extent the bonded indebtedness relates to a shared
8 governmental function within the community cluster.

9 4. The governing board may provide for the transfer or
10 other disposition of property and other rights, claims,
11 assets, and franchises as they relate to a shared governmental
12 function within the community cluster. A governmental unit
13 participating in a community cluster may make donations of
14 property, real or personal, including gratuitous leases, to
15 the community cluster and the governing board as deemed proper
16 and appropriate in aiding the community cluster and the
17 governing board effectuate their purposes.

18 5. The governing board may provide for the transfer,
19 reorganization, abolition, adjustment, and absorption or
20 merger of existing boards, existing subordinate service
21 districts, local improvement districts, and agencies of the
22 participating governmental units to the extent they relate to
23 a shared governmental function within the community cluster.

24 6. The governing board may determine the boundaries of the
25 service areas within the community cluster and shall provide
26 for administration of the provision of services in each of the
27 designated service areas.

28 7. The governing board may employ and fix the compensation
29 of administrative, technical, professional, and clerical
30 assistance as necessary to administer a shared governmental
31 function.

32 8. a. The governing board may adopt budgets for shared
33 governmental functions within the community cluster and may
34 levy property taxes to the extent the taxing authority of a
35 participating governmental unit is transferred to the

1 community cluster to fund a shared governmental function. The
2 governing board in its budget shall allocate the revenue
3 responsibilities of each governmental unit participating in
4 the community cluster. The governing board shall follow the
5 same procedures for adoption of a budget as if the community
6 cluster were a city and the governing board a city council.

7 b. The governing board shall devise formulas for the
8 transfer of taxing authority from governmental units that are
9 participating in the community cluster to the governing board
10 of the community cluster to fund a shared governmental
11 function. The maximum rates of taxes authorized to be levied
12 by a governmental unit participating in a community cluster
13 shall be reduced by an amount equal to that portion of the
14 levy rates transferred to the authority of the governing
15 board.

16 c. In lieu of transferring property taxing authority to a
17 governing board, a governmental unit participating in a
18 community cluster may meet its shared revenue obligations by
19 transferring other sources of revenue authorized to be
20 collected by the governmental unit.

21 9. The governing board may accept donations,
22 contributions, grants, or gifts from individuals,
23 associations, municipal and private corporations, and the
24 United States, or any agency or instrumentality of the United
25 States, and may enter into agreements in connection therewith.

26 10. The governing board may issue bonded indebtedness to
27 the extent authorized in section 28E.39.

28 11. By December 1 of each year, the governing board shall
29 provide a report relating to shared governmental functions and
30 administration of the community cluster to the governing body
31 of each governmental unit participating in the community
32 cluster.

33 Sec. 18. Section 28E.39, Code 2003, is amended by striking
34 the section and inserting in lieu thereof the following:

35 28E.39 ISSUANCE OF BONDS -- APPROVAL BY ELECTORATE.

1 1. The governing board may propose the expenditure of
2 funds, the issuance of revenue bonds, entering into a lease-
3 purchase agreement, or the issuance of general obligation
4 bonds for the following:

5 a. Acquisition of a construction site and construction of
6 a building or facility for common public use by two or more
7 governmental units participating in the community cluster.

8 b. Purchase of an existing building or facility for public
9 use, or conversion of a building or facility previously owned
10 and maintained by a governmental unit for public use by two or
11 more governmental units participating in the community
12 cluster.

13 c. Equipping or furnishing a new or existing building or
14 facility for public use by two or more governmental units
15 participating in the community cluster.

16 d. Operation, maintenance, or improvement of a building or
17 facility for public use by two or more governmental units
18 participating in the community cluster.

19 e. Any other aspect of construction, acquisition,
20 furnishing, operation, or maintenance of a building or
21 facility for public use by two or more governmental units
22 participating in the community cluster, such other aspect
23 having been proposed by the governing board and not otherwise
24 prohibited by law.

25 2. The proposal shall be forwarded to the governing body
26 of each governmental unit participating in the community
27 cluster that is listed in the proposal as being allocated a
28 portion of the cost for any of the purposes in subsection 1,
29 paragraphs "a" through "e". The proposal shall specify the
30 purposes for which the building or facility shall be used, the
31 estimated cost of the building or facility, the estimated
32 amount of the cost to be allocated to each of the
33 participating governmental units, the proportion and method of
34 allocating the expenses of the operation and maintenance of
35 the building or facility or improvement, and the disposition

1 to be made of any revenues to be derived from operation of the
2 building or facility.

3 3. If a proposal for expenditure of funds, for issuance of
4 revenue bonds, or for issuance of general obligation bonds
5 described in the proposal as essential county purpose bonds or
6 essential corporate purpose bonds is approved by the governing
7 body of each governmental unit named in the proposal, the
8 governing board may include such expenditures in its budget
9 for the following fiscal year. If a proposal for issuance of
10 general obligation bonds described in the proposal as general
11 county purpose bonds or general corporate purpose bonds or for
12 entering into a lease-purchase agreement is approved by the
13 governing body of each governmental unit named in the
14 proposal, the governing board shall direct the county
15 commissioner of elections to submit the proposition at a
16 special election. The special election may be held on the
17 same day as the general election if the county commissioner
18 determines that the elections will not conflict. Only those
19 registered voters living within the governmental units named
20 in the proposal may vote on the proposition. The proposition
21 shall be adopted if the vote in favor of the proposition is
22 equal to at least sixty percent of the vote cast for and
23 against the proposition in each governmental unit named in the
24 proposal.

25 4. The governing board when issuing indebtedness pursuant
26 to this section shall follow the procedures for issuance of
27 debt as if the governing board were a city council or a county
28 board of supervisors and the applicable bonding provisions of
29 chapters 74, 75, 331, and 384 shall apply.

30 5. Indebtedness issued pursuant to this section shall
31 constitute a debt of the governmental units named in the
32 proposal in the same proportion that the cost of the project
33 is allocated to the governmental units and such indebtedness
34 is subject to any statutory or constitutional limitation on
35 issuance of debt if the debt would be subject to such

1 limitation if it were issued by a governmental unit acting
2 alone.

3 Sec. 19. Section 28E.40, Code 2003, is amended by striking
4 the section and inserting in lieu thereof the following:

5 28E.40 JOINING COMMUNITY CLUSTER OR TERMINATING
6 PARTICIPATION.

7 1. A governmental unit, by resolution, may request to join
8 an existing community cluster. The governing body of the
9 governmental unit shall forward the resolution to the
10 governing bodies of each governmental unit participating in
11 the community cluster. If each of the governing bodies
12 approves the resolution, the governmental unit is included in
13 the community cluster and shall appoint two of the members of
14 its governing body to the governing board of the community
15 cluster.

16 2. A governmental unit, by resolution, may terminate its
17 participation in a community cluster. Immediately upon its
18 adoption by the governing body of the governmental unit
19 seeking termination of its participation in the community
20 cluster, the resolution shall be forwarded to the governing
21 board. The governing board is not empowered to deny
22 termination but it may set a timetable, not to exceed eighteen
23 months after adoption of the resolution, for termination to be
24 fully effective.

25 Sec. 20. EFFECTIVE DATE. This division of this Act, being
26 deemed of immediate importance, takes effect upon enactment.

27 EXPLANATION

28 This bill relates to shared governmental functions among
29 local governments.

30 Division I of the bill allows a municipality (a city or a
31 county) to apply to the department of management for
32 certification as a freedom community. Once a city or a county
33 is certified as a freedom community, the division provides for
34 additional duties relating to reporting to citizens and to
35 citizen involvement in future planning relating to provision

1 of services, operation of facilities, and government
2 reorganization. The division also provides certain financial
3 flexibilities to freedom communities.

4 The division provides that a municipality is eligible for
5 freedom community status if it has adopted a charter for city-
6 county consolidation, community commonwealth, multicounty
7 consolidation, or consolidated metropolitan corporation; if it
8 has established a regional metropolitan service area; or if
9 the municipality has entered into a Code chapter 28E agreement
10 of at least five years in duration if the agreement results in
11 services shared between political subdivisions equal to at
12 least 50 percent of budgeted expenditures for services of at
13 least one of the parties to the Code chapter 28E agreement.

14 The division provides that an eligible municipality shall
15 apply to the department of management for certification as a
16 freedom community. The division requires the municipality to
17 hold a public hearing on the freedom community application
18 before submitting the application to the department of
19 management. The department of management has 45 days in which
20 to act on an application for freedom community status. The
21 division provides that if the department grants certification,
22 the certification must be approved at an election.

23 The division requires the department of management to
24 monitor tax collections, other revenue, and expenditures of
25 freedom communities and to compare these items to
26 municipalities that have not been certified as freedom
27 communities. The division further requires that the
28 department prepare an annual report containing this
29 information.

30 The division provides that each municipality certified as a
31 freedom community shall send to its citizens every six months
32 an accountability report. The division further provides that
33 each municipality certified as a freedom community shall
34 establish a citizen commission comprised of citizens and local
35 government officials of the freedom community. The commission

1 is charged with planning and setting goals for the freedom
2 community. The division provides that if a municipality
3 certified as a freedom community fails to comply with these
4 requirements, the department of management shall notify the
5 governing body of the municipality that it must rectify the
6 areas of noncompliance within 12 months or freedom community
7 certification will be withdrawn. The division also provides
8 that the freedom community must submit data showing that per
9 capita tax and fee collections have not increased subsequent
10 to certification as a freedom community or freedom community
11 certification will be withdrawn.

12 The division provides financial flexibility to
13 municipalities certified as freedom communities including
14 allowing imposition of an income surtax that can be renewed
15 every five years if approved at an election, allowing a county
16 to impose a local option sales and services tax if the tax is
17 approved at a countywide election, allowing ordinances to be
18 adopted that charge fees for services, a developers impact
19 fee, and payments in lieu of taxes.

20 The division allows a municipality certified as a freedom
21 community to, in lieu of imposition of an income surtax,
22 declare itself exempt from the current levy rate limitations
23 for the general fund if the municipality is a city and for the
24 general fund and the rural services fund if the freedom
25 community is a county. The division also allows a
26 municipality certified as a freedom community to create
27 special taxing districts for services and to impose property
28 tax levies within those districts. The division allows a city
29 certified as a freedom community to impose the additional
30 levies currently allowed by statute in Code section 384.12
31 without the necessity of receiving approval at an election. A
32 municipality certified as a freedom community is allowed to
33 set the percentage of its budget, for which a real property
34 tax levy is authorized, that is to be collected from the tax
35 on the land and the percentage of its budget that is to be

1 collected from the tax on all other taxable real property
2 other than land. The division allows a freedom community that
3 is a county to issue rural general obligation bonds payable
4 from property taxes levied in the unincorporated areas of the
5 county. The bonds are subject to the election requirements
6 for countywide general obligation bonds.

7 The division also allows a municipality certified as a
8 freedom community to apply to the department of management for
9 a waiver of statutory requirement relating to budgets or
10 delivery of services if the application proposes an
11 alternative method. The division further allows a
12 municipality certified as a freedom community to apply to a
13 department of state government for a waiver of rules adopted
14 by the department relating to delivery of a service or
15 implementation of a statutory requirement if the application
16 proposes an alternative method. The division also allows a
17 department to adopt rules that result in greater authority and
18 flexibility for municipalities certified as freedom
19 communities.

20 This division of the bill takes effect upon enactment.

21 Division II of the bill expands current statutory
22 provisions relating to establishment of community clusters.
23 Community clusters are cooperative community units established
24 for the joint exercise of powers by two or more governmental
25 units.

26 Currently, a governmental unit that may participate in a
27 community cluster is defined as a city, county, or special
28 taxing district. The division adds townships, school
29 districts, and merged areas to the definition of governmental
30 unit. The division defines "shared governmental functions" to
31 include joint delivery of services, joint operation of
32 facilities, joint development of infrastructure, and joint
33 fostering of economic development.

34 The division provides that a community cluster and its
35 governing board shall have all the rights, powers, duties,

1 privileges, and immunities, as they relate to shared
2 governmental functions, as those governmental units
3 participating in the community cluster.

4 The division provides that the governing body of each
5 governmental unit participating in a community cluster may
6 appoint two of its members to a community cluster governing
7 board unless a different board membership is agreed upon by
8 the participating governmental units. The term of a member of
9 the governing board is two years or until the member's term on
10 the governing body expires, whichever is earlier.

11 The division requires the governing board to identify
12 shared governmental functions of the community cluster. The
13 division authorizes the governing board to provide for
14 adjustment of existing bonded indebtedness; transfer or
15 disposition of property; reorganization of existing
16 administrative boards, agencies, and services districts; to
17 accept donations, contributions, grants, or gifts; and to
18 employ necessary personnel insofar as all of these things
19 relate to administration of shared governmental functions
20 within the community cluster. The division also provides that
21 the governing board has the authority to adopt budgets for
22 shared governmental functions. The division requires the
23 governing board to devise formulas for the transfer of taxing
24 authority from participating governmental units to fund shared
25 governmental functions. Any amount of taxing authority
26 transferred shall be subtracted from the statutory maximum, if
27 any, for that governmental unit. A participating governmental
28 unit may transfer other revenues, in lieu of transferring
29 property tax authority, in order to meet its shared revenue
30 obligations. The division requires the governing board to
31 report annually to the governing body of each governmental
32 unit participating in the community cluster.

33 The division authorizes the governing board to expend
34 funds, enter into lease-purchase agreements, and issue revenue
35 bonds or general obligation bonds for acquisition,

1 construction, improvement, equipping, maintenance, and
2 operation of a building or facility for common public use by
3 two or more governmental units participating in the community
4 cluster. The proposal to expend funds or issue debt for a
5 building or facility must be approved by the governing body of
6 each governmental unit named in the proposal as being
7 allocated a portion of the cost of the building or facility.
8 The division provides that the governing board is to proceed
9 as if it were a city or a county expending the funds or
10 issuing the indebtedness. This means, among other things,
11 that if the proposal identifies the bonds as general county
12 purpose or general corporate purpose bonds, issuance of such
13 bonds must be approved at an election. Indebtedness that
14 would be subject to any statutory or constitutional limitation
15 if a governmental unit had issued the debt acting alone shall
16 be considered debt of the governmental unit as part of the
17 community cluster in the same proportion that the costs of the
18 building or facility were allocated to the governmental unit.

19 The division allows a governmental unit, by resolution, to
20 request joining an existing community cluster. The resolution
21 must be approved by the governing bodies of each governmental
22 unit participating in the community cluster. The division
23 also allows a governmental unit, by resolution, to terminate
24 participation in a community cluster. The governing board may
25 not deny termination, but it may set a timetable, not to
26 exceed 18 months, for termination to be fully effective.

27 The division strikes a section of the Code that required an
28 election before a community cluster could share property tax
29 revenues. The division also strikes a section of the Code
30 relating to establishment of regional metropolitan service
31 areas.

32 This division of the bill takes effect upon enactment.

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