

MAR 9 2004
Place On Calendar

HOUSE FILE 2529
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO HF 2250)

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, providing incentives for
4 such certification, and by modifying the establishment and
5 authority of community clusters and related county enterprise
6 authority, and providing an effective date.

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

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HF 2529

1 DIVISION I

2 FREEDOM COMMUNITIES

3 Section 1. NEW SECTION. 332.1 PURPOSE.

4 The purpose of this chapter is to encourage the sharing of
5 the provision of services by political subdivisions and to
6 provide political subdivisions with flexibility to operate
7 once sharing has occurred. It is further the purpose of this
8 chapter to measure the effectiveness of sharing of services
9 and report the outcomes to the department of management and to
10 the residents of the community.

11 Sec. 2. NEW SECTION. 332.2 DEFINITIONS.

- 12 1. "Municipality" means a city or county.
13 2. "Political subdivision" means a city, county, school
14 district, township, merged area as defined in section 260C.2,
15 or institution under the control of the state board of
16 regents.

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

- 19 1. A municipality may achieve freedom community status if
20 it meets the qualifications of this section and section 332.4.
21 2. To be eligible for freedom community status, a city or
22 county shall have accomplished one of the following:
23 a. Adopted by referendum a charter for city-county
24 consolidation pursuant to sections 331.247 through 331.252.
25 b. Adopted by referendum a charter for a community
26 commonwealth pursuant to sections 331.260 through 331.263.
27 c. Adopted by referendum a charter for multicounty
28 consolidation pursuant to sections 331.253 through 331.256.
29 d. Adopted by referendum a charter for a consolidated
30 metropolitan corporation pursuant to chapter 373.
31 e. Entered into at least one chapter 28E agreement with
32 one or more political subdivisions if the duration of the
33 agreement is at least five years and the agreement, or the
34 total of all such agreements between a municipality and one or
35 more political subdivisions, results in the shared provision

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

13 f. Assumed the exercise of powers and duties relating to
14 emergency services pursuant to section 331.385 and assumed the
15 exercise of powers and duties relating to cemeteries pursuant
16 to section 331.325.

17 Sec. 4. NEW SECTION. 332.4 APPLICATION FOR FREEDOM
18 COMMUNITY STATUS -- GRANTS -- PUBLIC HEARING -- ELECTION.

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

23 a. Qualifies as a freedom community pursuant to section
24 332.3. The municipality shall submit with the application for
25 freedom community status an abstract of the votes on the
26 referendum cited in section 332.3, subsection 2, or a summary
27 and signature page of the chapter 28E agreement along with
28 documentation showing that the agreement results in shared
29 services meeting the requirements of section 332.3, subsection
30 2, paragraph "f", or a copy of the ordinance required by
31 section 331.325 and a copy of the resolution required by
32 section 331.385.

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

1 community area.

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

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

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

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

1 a county and may be the same day as the regular city election
2 if the municipality is a city. The proposition is adopted if
3 it receives a favorable majority of the votes cast on the
4 proposition at the election.

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

7 Once a municipality has been certified as a freedom
8 community, the department of management shall monitor and
9 annually report on tax collections, other revenue, and
10 expenditures of the freedom community and compare such
11 information with similar information of local governments that
12 have not applied for or been granted freedom community status.
13 If provided in a timely manner, a summary of these comparisons
14 may be included in the accountability report in section 332.6.
15 The report shall also include a brief description of waivers
16 granted and alternative methods of compliance approved
17 pursuant to section 332.11. The department shall submit a
18 summary of the report for the most recently ended fiscal year
19 to the general assembly by January 15 of each year.

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

21 1. A municipality certified as a freedom community shall
22 report every twelve months on progress made in planning and
23 goal setting for additional mergers of services, joint
24 operations of facilities, or reorganization of government.

25 2. The freedom community shall determine when the report
26 shall be prepared, the manner in which the public shall be
27 notified of the availability of the report, and the means by
28 which the public may access or obtain a copy of the report.

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

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

2 The governing body of a municipality that is certified as a
3 freedom community may establish a citizen commission charged
4 with planning and setting goals for the freedom community.
5 The citizen commission shall establish an agenda for the
6 future relating to provision of services and operation of
7 facilities in the freedom community.

8 Sec. 8. NEW SECTION. 332.8 COMPLIANCE.

9 1. The governing body of a municipality certified as a
10 freedom community that fails to comply with the reporting
11 requirement in section 332.6 shall be notified by the
12 department of that fact. The department's notification shall
13 inform the governing body that it must rectify the areas of
14 noncompliance within twelve months or freedom community
15 certification will be withdrawn. The department shall
16 withdraw certification for noncompliance after twelve months.

17 2. After certification as a freedom community has been
18 approved at election, the governing body shall submit to the
19 department of management a report showing the per capita tax
20 and fee collections of the municipality for the fiscal year
21 immediately preceding the first fiscal year under which the
22 municipality operates as a freedom community. For each
23 subsequent fiscal year, the municipality, on or before
24 December 15 following the end of the fiscal year, shall
25 provide a report showing the per capita tax and fee
26 collections of the municipality. If, after applying inflation
27 and population increases or decreases to such per capita
28 figures, the department determines that the municipality has
29 increased tax and fee collections per capita as a freedom
30 community, the department shall notify the municipality that
31 freedom community certification shall be withdrawn beginning
32 with the fiscal year following the calendar year in which the
33 determination is made. The department shall make a
34 determination under this subsection no sooner than February 15
35 following submission of the report by the municipality. The

1 municipality may apply to the department to have withdrawal of
2 certification delayed for another fiscal year.

3 Sec. 9. NEW SECTION. 332.9 FREEDOM COMMUNITY FINANCIAL
4 FLEXIBILITIES.

5 1. If a county that is a freedom community wishes to
6 impose a countywide local option sales tax, the county may do
7 so by resolution of the board of supervisors and by approval
8 of the proposition to impose the sales tax by a majority of
9 persons in the county voting on the proposition voting in
10 favor of such proposition, notwithstanding the election
11 requirements of section 422B.8. If the proposition is
12 approved, the local option sales tax revenue shall be
13 allocated in the manner provided in section 422B.10. A
14 freedom community shall not impose a local option sales tax if
15 imposition of such a tax has already been approved under
16 chapter 422B.

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

22 3. The county board of supervisors of a county certified
23 as a freedom community may direct the county auditor to
24 establish a rural debt service tax district for the purpose of
25 issuing general obligation bonds for rural county services.
26 The rural debt service tax district shall include only
27 unincorporated portions of the county. The county's debt
28 service tax levy for the general obligation bonds for rural
29 county services shall be levied only against taxable property
30 within the county which is included within the boundaries of
31 the rural debt service tax district. The board may issue
32 general obligation bonds for general county purposes and
33 essential county purposes in the rural debt service tax
34 district if such stated purpose is intended to exclusively
35 benefit those persons residing in the county outside of

1 incorporated city areas. General obligation bonds for rural
2 county services are subject to approval at an election held in
3 the manner provided in section 331.442, subsections 1 through
4 4, except that only those registered voters residing within
5 the rural service area tax district may vote on the
6 proposition.

7 Sec. 10. NEW SECTION. 332.10 STATE REIMBURSEMENTS AND
8 LOCAL GOVERNMENT ASSISTANCE -- COMPLIANCE WITH STATE MANDATES.

9 1. Notwithstanding any provision of the Code to the
10 contrary, if a state appropriation that reimburses cities and
11 counties or that otherwise provides local government
12 assistance to cities and counties is reduced as a result of
13 the governor's action pursuant to section 8.31 to reduce
14 appropriations to prevent a deficit in the general fund of the
15 state or as a result of the action of the general assembly to
16 limit or reduce a standing appropriation or to not appropriate
17 a sufficient amount, the actual amount appropriated shall
18 first be used to reimburse or compensate, in full, all amounts
19 due to cities and counties certified as freedom communities as
20 provided in the law establishing the amount of the
21 reimbursement or local government assistance.

22 This subsection does not apply to local government
23 assistance appropriated by the general assembly as a result of
24 operation of section 25B.2.

25 2. A municipality certified as a freedom community shall
26 not be required to comply with a state mandate as that term is
27 defined in section 25B.3 unless the total cost of the state
28 mandate is funded by the state pursuant to section 25B.2.

29 This subsection does not apply to mandates originating with
30 the federal government; mandates relating to the conduct of
31 elections in the state; and mandates which provide for local
32 funding in the legislation containing the mandate, such as
33 allowing imposition of a fee or providing for an increase in
34 any maximum property tax levy rate authorized by state law.

35 Sec. 11. NEW SECTION. 332.11 WAIVER OF STATUTORY

1 REQUIREMENTS AND STATE RULES.

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

10 implementation of a statutory requirement that result in
11 greater authority and flexibility for the freedom community.

12 2. A department shall notify the department of management
13 when the department has granted a waiver pursuant to
14 subsection 2. The notification shall briefly describe the
15 waiver granted and the alternative method of compliance
16 approved by the department.

17 Sec. 12. EFFECTIVE DATE. This division of this Act, being
18 deemed of immediate importance, takes effect upon enactment.

19 DIVISION II

20 COMMUNITY CLUSTERS

21 Sec. 13. Section 28E.35, Code 2003, is amended to read as
22 follows:

23 28E.35 DEFINITIONS.

24 As used in this division unless the context otherwise
25 requires:

26 1. "Community cluster" means a cooperative community unit
27 established pursuant to this chapter for the joint exercise of
28 powers by two or more governmental units and for sharing one
29 or more governmental functions between two or more
30 governmental units participating in a community cluster.

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

33 ~~2.~~ 3. "Governmental unit" means a city, county, township,
34 school district, merged area as defined in section 260C.2, or
35 special taxing district.

1 4. "Shared governmental function" includes, but is not
2 limited to, joint delivery of services, joint operation of
3 facilities, joint development of infrastructure, or joint
4 fostering of economic development.

5 Sec. 14. Section 28E.36, Code 2003, is amended to read as
6 follows:

7 28E.36 ESTABLISHMENT OF COMMUNITY CLUSTER.

8 Two or more governmental units located in the state may, by
9 resolution of each governmental unit, establish a community
10 cluster ~~by entering into an agreement~~ for the joint exercise
11 of powers pursuant to this chapter to make more efficient use
12 of their resources by providing for ~~joint functions, services,~~
13 ~~facilities, development of infrastructure and for revenue~~
14 ~~sharing, and to foster economic development~~ shared
15 governmental functions between two or more of the governmental
16 units participating in the community cluster.

17 A community cluster and its governing board shall have all
18 the rights, powers, duties, privileges, and immunities of a
19 governmental unit and governmental unit governing body to the
20 extent that such rights, powers, duties, privileges, and
21 immunities relate to shared governmental functions of the
22 governmental units participating in the community cluster.

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

25 28E.37 COMMUNITY CLUSTER GOVERNING BOARD.

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

1 the governing board.

2 Sec. 16. Section 28E.38, Code 2003, is amended by striking
3 the section and inserting in lieu thereof the following:

4 28E.38 POWERS AND DUTIES OF GOVERNING BOARD -- EXISTING
5 BONDED INDEBTEDNESS -- TAXING AUTHORITY.

6 1. The governing board shall identify governmental
7 functions, services, facilities, development of
8 infrastructure, or economic development efforts that will be
9 shared or jointly provided or operated within the community
10 cluster.

11 2. The governing board shall establish an official name
12 for the community cluster.

13 3. The governing board may provide for the transfer or
14 other disposition of property and other rights, claims,
15 assets, and franchises as they relate to a shared governmental
16 function within the community cluster, subject to approval of
17 the governing body of the governmental unit that has
18 jurisdiction over such property or other rights, claims,
19 assets, and franchises. The governing body of a governmental
20 unit participating in a community cluster may make donations
21 of property, real or personal, including gratuitous leases, to
22 the community cluster and the governing board as deemed proper
23 and appropriate in aiding the community cluster and the
24 governing board effectuate their purposes.

25 4. The governing board may provide for the transfer,
26 reorganization, abolition, adjustment, and absorption or
27 merger of existing boards, existing subordinate service
28 districts, local improvement districts, and agencies of the
29 participating governmental units to the extent they relate to
30 a shared governmental function within the community cluster,
31 subject to approval of the governing body of the governmental
32 unit that has jurisdiction over such boards, districts, and
33 agencies.

34 5. The governing board may determine the boundaries of the
35 service areas within the community cluster and shall provide

1 for administration of the provision of services in each of the
2 designated service areas.

3 6. The governing board may employ and fix the compensation
4 of administrative, technical, professional, and clerical
5 assistance as necessary to administer a shared governmental
6 function.

7 7. a. The governing board may adopt budgets for shared
8 governmental functions within the community cluster and may
9 levy property taxes to the extent the taxing authority of a
10 participating governmental unit is transferred to the
11 community cluster to fund a shared governmental function. The
12 governing board in its budget shall allocate the revenue
13 responsibilities of each governmental unit participating in
14 the community cluster. The governing board shall follow the
15 same procedures for adoption of a budget as if the community
16 cluster were a city and the governing board a city council.

17 b. The governing board may devise formulas for the
18 transfer of taxing authority from governmental units that are
19 participating in the community cluster to the governing board
20 of the community cluster to fund a shared governmental
21 function. The maximum rates of taxes authorized to be levied
22 by a governmental unit participating in a community cluster
23 shall be reduced by an amount equal to that portion of the
24 levy rates transferred to the authority of the governing
25 board.

26 c. In lieu of transferring property taxing authority to a
27 governing board, a governmental unit participating in a
28 community cluster may meet its shared revenue obligations by
29 transferring other sources of revenue authorized to be
30 collected by the governmental unit.

31 8. The governing board may accept donations,
32 contributions, grants, or gifts from individuals,
33 associations, municipal and private corporations, and the
34 United States, or any agency or instrumentality of the United
35 States, and may enter into agreements in connection therewith.

1 9. The governing board may issue bonded indebtedness to
2 the extent authorized in section 28E.39.

3 10. By December 1 of each year, the governing board shall
4 provide a report relating to shared governmental functions and
5 administration of the community cluster to the governing body
6 of each governmental unit participating in the community
7 cluster.

8 Sec. 17. Section 28E.39, Code 2003, is amended by striking
9 the section and inserting in lieu thereof the following:

10 28E.39 ISSUANCE OF BONDS -- APPROVAL BY ELECTORATE.

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

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

18 b. Purchase of an existing building or facility for public
19 use, or conversion of a building or facility previously owned
20 and maintained by a governmental unit for public use by two or
21 more governmental units participating in the community
22 cluster.

23 c. Equipping or furnishing a new or existing building or
24 facility for public use by two or more governmental units
25 participating in the community cluster.

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

29 e. Any other aspect of construction, acquisition,
30 furnishing, operation, or maintenance of a building or
31 facility for public use by two or more governmental units
32 participating in the community cluster, such other aspect
33 having been proposed by the governing board and not otherwise
34 prohibited by law.

35 2. The proposal shall be forwarded to the governing body

1 of each governmental unit participating in the community
2 cluster that is listed in the proposal as being allocated a
3 portion of the cost for any of the purposes in subsection 1,
4 paragraphs "a" through "e". The proposal shall specify the
5 purposes for which the building or facility shall be used, the
6 estimated cost of the building or facility, the estimated
7 amount of the cost to be allocated to each of the
8 participating governmental units, the proportion and method of
9 allocating the expenses of the operation and maintenance of
10 the building or facility or improvement, and the disposition
11 to be made of any revenues to be derived from operation of the
12 building or facility.

13 3. a. If a proposal for expenditure of funds, for
14 issuance of revenue bonds, or for issuance of general
15 obligation bonds described in the proposal as essential county
16 purpose bonds or essential corporate purpose bonds is approved
17 by the governing body of each governmental unit named in the
18 proposal, the governing board may include such expenditures in
19 its budget for the following fiscal year.

20 b. If a proposal for issuance of general obligation bonds
21 described in the proposal as general county purpose bonds or
22 general corporate purpose bonds or for entering into a lease-
23 purchase agreement is approved by the governing body of each
24 governmental unit named in the proposal, the governing board
25 shall direct the county commissioner of elections to submit
26 the proposition at a special election. The special election
27 may be held on the same day as the general election if the
28 county commissioner determines that the elections will not
29 conflict. However, the election shall be held on the same day
30 in each governmental unit voting on the proposition. Only
31 those registered voters living within the governmental units
32 named in the proposal may vote on the proposition. If
33 necessary, the election shall be conducted pursuant to section
34 47.2, subsections 2 through 4. The proposition shall be
35 adopted if the vote in favor of the proposition is equal to at

1 least sixty percent of the vote cast for and against the
2 proposition in each governmental unit named in the proposal.

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

8 5. Indebtedness issued pursuant to this section shall
9 constitute a debt of the governmental units named in the
10 proposal in the same proportion that the cost of the project
11 is allocated to the governmental units and such indebtedness
12 is subject to any statutory or constitutional limitation on
13 issuance of debt if the debt would be subject to such
14 limitation if it were issued by a governmental unit acting
15 alone.

16 Sec. 18. Section 28E.40, Code 2003, is amended by striking
17 the section and inserting in lieu thereof the following:

18 28E.40 JOINING COMMUNITY CLUSTER OR TERMINATING
19 PARTICIPATION.

20 1. A governmental unit, by resolution, may request to join
21 an existing community cluster. The governing body of the
22 governmental unit shall forward the resolution to the
23 governing bodies of each governmental unit participating in
24 the community cluster. If each of the governing bodies
25 approves the resolution, the governmental unit is included in
26 the community cluster and shall appoint two of the members of
27 its governing body to the governing board of the community
28 cluster.

29 2. A governmental unit, by resolution, may terminate its
30 participation in a community cluster. Immediately upon its
31 adoption by the governing body of the governmental unit
32 seeking termination of its participation in the community
33 cluster, the resolution shall be forwarded to the governing
34 board. A resolution to terminate participation is subject to
35 the governmental unit seeking to terminate participation and

1 the remaining participating governmental units reaching
2 agreement relating to adjustment, transfer, or disposition of
3 debt and revenue obligations of the governmental unit seeking
4 to terminate participation. The governing board is not
5 empowered to deny termination but it may set a timetable, not
6 to exceed eighteen months after adoption of the resolution,
7 for termination to be fully effective.

8 Sec. 19. Section 331.461, subsection 2, Code 2003, is
9 amended by adding the following new paragraph:

10 NEW PARAGRAPH. h. Port facilities or port facilities
11 systems, including without limitation, real and personal
12 property, water, buildings, improvements, and equipment useful
13 and suitable for taking care of the needs of commerce and
14 shipping, and also including without limitation, wharves,
15 docks, basins, piers, quay walls, warehouses, tunnels, belt
16 railway facilities, cranes, dock apparatus, and other
17 machinery necessary for the convenient and economical
18 accommodation and handling of watercraft of all kinds and of
19 freight and passengers.

20

EXPLANATION

21 This bill relates to shared governmental functions among
22 local governments.

23 Division I of the bill allows a municipality (a city or a
24 county) to apply to the department of management for
25 certification as a freedom community.

26 The division provides that a municipality is eligible for
27 freedom community status if it has adopted a charter for city-
28 county consolidation, community commonwealth, multicounty
29 consolidation, or consolidated metropolitan corporation; or if
30 the municipality has entered into a Code chapter 28E agreement
31 of at least five years in duration if the agreement results in
32 services shared between political subdivisions equal to at
33 least 25 percent of budgeted expenditures for services of at
34 least one of the parties to the Code chapter 28E agreement.

35 The division provides that an eligible municipality shall

1 apply to the department of management for certification as a
2 freedom community. The division requires the municipality to
3 hold a public hearing on the freedom community application
4 before submitting the application to the department of
5 management. The department of management has 45 days in which
6 to act on an application for freedom community status. The
7 division provides that if the department grants certification,
8 the certification must be approved at an election.

9 The division requires the department of management to
10 monitor tax collections, other revenue, and expenditures of
11 freedom communities and to compare these items to
12 municipalities that have not been certified as freedom
13 communities. The division further requires that the
14 department prepare an annual report containing this
15 information and containing information on waivers granted to
16 freedom communities by state departments.

17 The division provides that each municipality certified as a
18 freedom community shall every 12 months prepare an
19 accountability report. The division provides that if a
20 municipality certified as a freedom community fails to comply
21 with this requirement, the department of management shall
22 notify the governing body of the municipality that it must
23 rectify the areas of noncompliance within 12 months or freedom
24 community certification will be withdrawn. The division also
25 provides that the freedom community must submit data showing
26 that per capita tax and fee collections have not increased
27 subsequent to certification as a freedom community or freedom
28 community certification will be withdrawn.

29 The division further provides that each municipality
30 certified as a freedom community may establish a citizen
31 commission to plan and set goals for the freedom community.

32 The division allows a county certified as a freedom
33 community to impose a local option sales and services tax if
34 the tax is approved at a countywide election. The division
35 also allows a municipality certified as a freedom community to

1 create special taxing districts for services and to impose
2 property tax levies within those districts. The division
3 allows a freedom community that is a county to issue rural
4 general obligation bonds payable from property taxes levied in
5 the unincorporated areas of the county. The bonds are subject
6 to the election requirements for countywide general obligation
7 bonds.

8 The division provides that if reimbursements or local
9 government assistance provided by the state to cities and
10 counties are reduced by appropriation or by action of the
11 governor, the amount of the actual appropriation shall be
12 first paid in full to freedom communities before the remainder
13 is paid to other cities and counties. This does not apply to
14 appropriations made to fund a specific state mandate. The
15 division further provides that a freedom community shall not
16 be required to implement a state mandate unless the total cost
17 of the mandate is funded by the state. This provision does
18 not apply to mandates originating with the federal government,
19 mandates relating to the conduct of elections, or legislation
20 containing a mandate that also provides for increased
21 authority for local funding of the mandate.

22 The division allows a municipality certified as a freedom
23 community to apply to a department of state government for a
24 waiver of rules adopted by the department relating to delivery
25 of a service or implementation of a statutory requirement if
26 the application proposes an alternative method. The division
27 also allows a department to adopt rules that result in greater
28 authority and flexibility for municipalities certified as
29 freedom communities.

30 This division of the bill takes effect upon enactment.

31 Division II of the bill expands current statutory
32 provisions relating to establishment of community clusters.
33 Community clusters are cooperative community units established
34 for the joint exercise of powers by two or more governmental
35 units.

1 Currently, a governmental unit that may participate in a
2 community cluster is defined as a city, county, or special
3 taxing district. The division adds townships, school
4 districts, and merged areas (community colleges) to the
5 definition of governmental unit. The division defines "shared
6 governmental functions" to include joint delivery of services,
7 joint operation of facilities, joint development of
8 infrastructure, and joint fostering of economic development.

9 The division provides that a community cluster and its
10 governing board shall have all the rights, powers, duties,
11 privileges, and immunities, as they relate to shared
12 governmental functions, as those governmental units
13 participating in the community cluster.

14 The division provides that the governing body of each
15 governmental unit participating in a community cluster may
16 appoint two of its members to a community cluster governing
17 board unless a different board membership is agreed upon by
18 the participating governmental units. The term of a member of
19 the governing board is two years or until the member's term on
20 the governing body expires, whichever is earlier.

21 The division requires the governing board to identify
22 shared governmental functions of the community cluster. The
23 division authorizes the governing board to provide for
24 transfer or disposition of property, subject to the approval
25 of the applicable governing body; reorganization of existing
26 administrative boards, agencies, and services districts
27 subject to the approval of the applicable governing body; to
28 accept donations, contributions, grants, or gifts; and to
29 employ necessary personnel insofar as all of these things
30 relate to administration of shared governmental functions
31 within the community cluster. The division also provides that
32 the governing board has the authority to adopt budgets for
33 shared governmental functions. The division allows the
34 governing board to devise formulas for the transfer of taxing
35 authority from participating governmental units to fund shared

1 governmental functions. Any amount of taxing authority
2 transferred shall be subtracted from the statutory maximum, if
3 any, for that governmental unit. A participating governmental
4 unit may transfer other revenues, in lieu of transferring
5 property tax authority, in order to meet its shared revenue
6 obligations. The division requires the governing board to
7 report annually to the governing body of each governmental
8 unit participating in the community cluster.

9 The division authorizes the governing board to expend
10 funds, enter into lease-purchase agreements, and issue revenue
11 bonds or general obligation bonds for acquisition,
12 construction, improvement, equipping, maintenance, and
13 operation of a building or facility for common public use by
14 two or more governmental units participating in the community
15 cluster. The proposal to expend funds or issue debt for a
16 building or facility must be approved by the governing body of
17 each governmental unit named in the proposal as being
18 allocated a portion of the cost of the building or facility.
19 The division provides that the governing board is to proceed
20 as if it were a city or a county expending the funds or
21 issuing the indebtedness. This means, among other things,
22 that if the proposal identifies the bonds as general county
23 purpose or general corporate purpose bonds, issuance of such
24 bonds must be approved at an election. Indebtedness that
25 would be subject to any statutory or constitutional limitation
26 if a governmental unit had issued the debt acting alone shall
27 be considered debt of the governmental unit as part of the
28 community cluster in the same proportion that the costs of the
29 building or facility were allocated to the governmental unit.

30 The division allows a governmental unit, by resolution, to
31 request joining an existing community cluster. The resolution
32 must be approved by the governing bodies of each governmental
33 unit participating in the community cluster. The division
34 also allows a governmental unit, by resolution, to terminate
35 participation in a community cluster. The governing board may

1 not deny termination, but it may set a timetable, not to
2 exceed 18 months, for termination to be fully effective. An
3 agreement relating to remaining debt and revenue obligations
4 is required before termination can occur.

5 The division adds port facilities and port facilities
6 systems to the definition of county enterprise. Currently,
7 port facilities and port facilities systems are included in
8 the definition of city enterprise.

9 The division strikes a provision of the Code that required
10 an election before a community cluster could share property
11 tax revenues. The division also strikes a provision of the
12 Code relating to establishment of regional metropolitan
13 service areas.

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