

JAN 14 2005  
LOCAL GOVERNMENT

HOUSE FILE 73  
BY SCHICKEL and HUSER

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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DIVISION I

FREEDOM COMMUNITIES

Section 1. NEW SECTION. 332.1 PURPOSE.

The purpose of this chapter is to encourage the sharing of the provision of services by political subdivisions and to provide political subdivisions with flexibility to operate once sharing has occurred. It is further the purpose of this chapter to measure the effectiveness of sharing of services and report the outcomes to the department of management and 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, township, merged area as defined in section 260C.2, or institution under the control of the state board of regents.

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 multicounty consolidation pursuant to sections 331.253 through 331.257.

c. Adopted by referendum a charter for a community commonwealth pursuant to sections 331.260 through 331.263.

d. Adopted by referendum a charter for a consolidated metropolitan corporation pursuant to chapter 373.

e. 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, or the total of all such agreements between a municipality and one or 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 "e", or a copy of the ordinance required by  
31 section 331.325, or 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 423B.1. If the proposition is  
12 approved, the local option sales tax revenue shall be  
13 allocated in the manner provided in section 423B.7. A freedom  
14 community shall not impose a local option sales tax if  
15 imposition of such a tax has already been approved under  
16 chapter 423B.

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 the 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, which rules result  
11 in greater authority and flexibility for the freedom  
12 community.

13 2. A department shall notify the department of management  
14 when the department has granted a waiver pursuant to  
15 subsection 1. The notification shall briefly describe the  
16 waiver granted and the alternative method of compliance  
17 approved by the department.

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

20 DIVISION II

21 COMMUNITY CLUSTERS

22 Sec. 13. Section 28E.35, Code 2005, is amended to read as  
23 follows:

24 28E.35 DEFINITIONS.

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

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

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

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

1 special taxing district.

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

6 Sec. 14. Section 28E.36, Code 2005, is amended to read as  
7 follows:

8 28E.36 ESTABLISHMENT OF COMMUNITY CLUSTER.

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

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

24 Sec. 15. Section 28E.37, Code 2005, is amended by striking  
25 the section and inserting in lieu thereof the following:

26 28E.37 COMMUNITY CLUSTER GOVERNING BOARD.

27 The governing body of each governmental unit participating  
28 in a community cluster shall appoint two of its members to a  
29 community cluster governing board. However, an alternative  
30 board composition may be agreed upon by the participating  
31 governmental units. A member of the governing board shall  
32 serve for two years or until the member's term on the  
33 governing body of the governmental unit expires, whichever is  
34 earlier. A vacancy on the governing board shall be filled in  
35 the same manner as the original appointment. A member of the

1 governing board shall not receive compensation for service on  
2 the governing board.

3 Sec. 16. Section 28E.38, Code 2005, is amended by striking  
4 the section and inserting in lieu thereof the following:

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

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

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

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

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

35 5. The governing board may determine the boundaries of the

1 service areas within the community cluster and shall provide  
2 for administration of the provision of services in each of the  
3 designated service areas.

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

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

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

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

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

1 States, and may enter into agreements in connection therewith.

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

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

9 Sec. 17. Section 28E.39, Code 2005, is amended by striking  
10 the section and inserting in lieu thereof the following:

11 28E.39 ISSUANCE OF BONDS -- APPROVAL BY ELECTORATE.

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

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

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

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

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

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

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

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

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

1 adopted if the vote in favor of the proposition is equal to at  
2 least sixty percent of the vote cast for and against the  
3 proposition in each governmental unit named in the proposal.

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

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

17 Sec. 18. Section 28E.40, Code 2005, is amended by striking  
18 the section and inserting in lieu thereof the following:

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

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

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

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

10 Sec. 19. Section 331.461, subsection 2, Code 2005, is  
11 amended by adding the following new paragraph:

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

22 EXPLANATION

23 This bill relates to shared governmental functions among  
24 local governments.

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

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



1 least one of the parties to the Code chapter 28E agreement.

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

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

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

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

34 The division allows a county certified as a freedom  
35 community to impose a local option sales and services tax if

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

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

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

32 This division of the bill takes effect upon enactment.

33 Division II of the bill expands current statutory  
34 provisions relating to establishment of community clusters.  
35 Community clusters are cooperative community units established

1 for the joint exercise of powers by two or more governmental  
2 units.

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

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

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

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

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

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

33 The division allows a governmental unit, by resolution, to  
34 request joining an existing community cluster. The request to  
35 join must be approved by resolution by the governing bodies of

1 each governmental unit participating in the community cluster.  
2 The division also allows a governmental unit, by resolution,  
3 to terminate participation in a community cluster. The  
4 governing board may not deny termination, but it may set a  
5 timetable, not to exceed 18 months, for termination to be  
6 fully effective. An agreement relating to remaining debt and  
7 revenue obligations is required before termination can occur.

8 The division adds port facilities and port facilities  
9 systems to the definition of county enterprise. Currently,  
10 port facilities and port facilities systems are included in  
11 the definition of city enterprise.

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

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