

Article 25A - Chartered Counties of Maryland

General Provisions

Section 1. Authority to Adopt and Effect of Adoption.

(a) *Authority to adopt.* The inhabitants of any county adopting a charter or form of government under the provisions of Article XI–A of the Constitution of the State by virtue of such adoption shall have perpetual succession; may sue and be sued; may purchase or otherwise acquire and hold real, personal and mixed property, either absolutely or in trust for any public purpose; may dispose of the same subject to the limitations herein provided, if not contrary to the terms of any trust; may have, use and alter at pleasure a common seal; and may pass and adopt all ordinances, resolutions or bylaws necessary or proper to exercise the powers herein granted.

(b) *Effect of adoption.* All property and franchises of every kind belonging to or in the possession of the board of commissioners of the county and any of its agencies, shall, immediately upon the adoption of a charter, be vested in the said county, as a corporation. And no action against the county commissioners of any county adopting the charter shall abate, but shall be continued in the name of the county with the same effect as if originally so brought or begun; and all subsisting liabilities, obligations, contracts, claims and demands at law or in equity, accrued or to accrue, of said county commissioners or in its favor, shall without further formality be and become the liabilities, obligations, contracts, claims and demands of such commissioners and county council of the county adopting a charter under said Article XI–A, and no criminal action, prosecution or indictment shall be affected by the adoption of a charter as aforesaid, but shall be prosecuted under the law in force at the time of the commission of the offense.

Section 1A. Defense of Sovereign Immunity in Actions in Contract.

(a) *Defense not to be raised in certain actions.* Unless otherwise specifically provided by the laws of Maryland, a chartered county, and every officer, department, agency, board, commission, or other unit of county government may not raise the defense of sovereign immunity in the courts of this State in an action in contract based upon a written contract executed on behalf of the county, or its department, agency, board, commission, or unit by an official or employee acting within the scope of his authority.

(b) *No liability for punitive damages.* In any action in contract described under subsection (a) of this section, the county, or its officer, department, agency, board, commission, or other unit of government shall have the immunity from liability described under § 5-509 of the Courts and Judicial Proceedings Article.

(c) *Limitation of actions.* A claim is barred unless the claimant files suit within one year from the date on which the claim arose or within one year after completion of the contract giving rise to the claim, whichever is later.

(d) *Funds to be made available by governing body.* In order to provide for the implementation of this section, the governing body of every chartered county shall make available adequate funds for the satisfaction of any final judgment, after the exhaustion of any right of appeal, which has been rendered against the county, or any officer, department, agency, board, commission, or other unit of government in an action in contract as provided in this section.

(e) *Resolution of dispute in construction contract – Final binding determination by county officer.* Except as provided in subsections (f) and (g) of this section, a chartered county may not require in a construction contract, or otherwise provide with regard to a construction contract, to which it is a party, that a dispute between the parties involving \$10,000 or more regarding the terms of the contract or performance under the contract, be subject to final binding or conclusive determination by an officer or official body of a chartered county.

(f) *Same – Determination by neutral person or arbitration panel.* A chartered county may require or provide, with regard to a construction contract to which it is a party, that if there is a dispute regarding the terms of the contract or performance under the contract, the question or questions involved in the dispute shall be subject to a determination which is final and conclusive on all parties, made either by:

(1) A neutral person or entity selected by or in accordance with a procedure established by the highest executive authority of a chartered county; or

(2) In the event that the other party does not accept as neutral a person or entity selected under paragraph (1) of this subsection, by an arbitration panel composed of the following:

(i) One member designated by the highest executive authority of a chartered county;

(ii) One member designated by the other party to the dispute; and

(iii) One member to be selected by mutual agreement of the two designated members from lists to be submitted by the parties to the dispute.

(g) *Same – Determination by county officer subject to court review.* Notwithstanding the provisions of subsections (e) and (f) of this section, a chartered county may provide or require, with regard to a construction contract to which it is a party, that a dispute between the parties involving \$10,000 or more regarding the terms of the contract or performance under the contract, be subject to a determination of questions of fact by an officer or official body of a chartered county, provided that the decision of the officer or official body of a chartered county is subject to review on the record by a court of competent jurisdiction.

Section 2. Election of Members of Council.

The members of the county council of any county adopting a charter under Article XI-A of the Maryland Constitution shall be elected as provided in § 3A of that article.

Section 3. Charter May Require Councilmembers to Reside in Specified Districts in County.

The charter of any county governed under the provisions of Article XI-A of the Constitution may require that a specified number of council members must reside in specified districts in the county but that such members shall be elected on the general ticket by the qualified voters of such county.

Section 3B. Agencies to be Notified of Adoption or Rejection of Charter.

Promptly after any county has adopted or rejected a charter form of government the agencies listed in this section shall be notified of that change. In addition, copies of the charter as adopted or rejected shall be sent to the following agencies:

- (1) State Department of Legislative Services
Legislative Services Building
90 State Circle
Annapolis, Maryland 21401 (five copies)

- (2) Secretary of State of Maryland
State House
Annapolis, Maryland 21401 (one copy)

- (3) State Archives
350 Rowe Boulevard
Annapolis, Maryland 21401 (one copy)

- (4) State Law Library
Courts of Appeal Building
Rowe Boulevard and Taylor Avenue
Annapolis, Maryland 21401 (one copy)

Grant of Powers

Section 4. In General.

(a) *Exercise of express powers.* Whenever any county among the geographical subdivisions of this State, as that term is defined in § 4 of Article XI-A of the Constitution of the State, shall have adopted for itself a charter or form of government under the provisions of said Article XI-A of the Constitution, it shall be entitled to exercise the following express powers in addition to the powers codified in Article 25 of the Code, title “County Commissioners”.

(b) *Applicability of subtitle “Draining Lands” of Article 25 to charter counties.* Notwithstanding the provisions of this section, the subtitle “Draining Lands” of Article 25 of the

Code applies to a county that adopts a charter form of government under the provisions of Article XI-A of the Constitution.

Express Powers

Section 5. Enumeration.

The following enumerated express powers are granted to and conferred upon any county or counties which hereafter form a charter under the provisions of Article XI-A of the Constitution, that is to say:

(A) Local Legislation

(1) To enact local laws for the county, including the power to repeal or amend local laws of the county enacted by the General Assembly upon the matters covered by the express powers in this article.

(2) To provide for the enforcement of all ordinances, resolutions, bylaws and regulations adopted under the authority of this article by fines, penalties and imprisonment, enforceable according to law as may be prescribed. A penalty may not exceed \$1,000 for any offense, unless otherwise authorized in this subsection, or provide for imprisonment for more than six months.

(3) To provide for the enforcement of local fair housing laws by fines or penalties that do not exceed the fines or penalties provided in the federal Fair Housing Act Amendments of 1988 for enforcement of similar federal fair housing laws.

(4) To provide for the enforcement of local employment discrimination laws or public accommodations discrimination laws by fines or penalties that do not exceed \$5,000 for any offense.

(5) To provide for enforcement of all ordinances, resolutions, bylaws, and regulations adopted under the authority of this article by civil fines and penalties.

(B) County Property and Franchises

To provide for the protection of the county property; to provide for the acquisition by purchase, lease, or otherwise, and condemnation of property required for public purposes in the county; to dispose of any real or leasehold property belonging to the county, provided the same is no longer needed for public use; to provide for the financing of any housing or housing project in whole or in part, including the placement of a deed of trust, mortgage, or other instrument upon the property to ensure repayment of funds used to purchase, construct, rehabilitate, or otherwise develop the housing project; to grant any franchise or right to use the same, or any right or franchise in relation to any highway, street, road, lanes, alley or bridge; to grant one or more exclusive or nonexclusive franchises for a community antenna system or other cable television system that utilizes any public right-of-way, highway, street, road, lane, alley, or bridge, to impose franchise fees, and to establish rates, rules, and regulations for franchises granted; and to provide for the leasing as lessor to the State or any political subdivision or other agency thereof, or to any county agency, or to any person, any property belonging to the county

or any agency thereof, in furtherance of the public purposes of such county or agency, upon such terms and compensation as said county may deem proper, and after such disposition, grant or lease shall have been advertised once a week for three successive weeks in one or more newspapers of general circulation published in said county, stating the terms thereof and the compensation to be received therefor, and giving opportunity for objections thereto. Provided, however, that easements for public utilities may be granted without advertisement.

(C) County Institutions

To erect, establish, maintain and control hospitals, almshouses, pesthouses or other similar institutions within the county, and make all regulations for the government and conduct of the same; to erect, establish and maintain courthouses; to establish, maintain, regulate and control county jails, and county houses of correction or detention and reformatories, and to regulate all persons confined therein; to make proper provision for female and juvenile offenders.

(D) Advertising and Printing

To provide for county advertising, printing and publishing, including that of all ordinances, bylaws or resolutions adopted by the county council and of annual statements of expenses of the county government.

(E) Audits and Claims

To audit the accounts of all county officers, assisting the Legislative Auditor or other State officer clothed with authority in the performance of this duty; to provide for proof of all claims against the county before their payment.

(F) Contracts and Bonds; Purchases Through Purchasing Bureau

To provide for competitive bidding for any county work and the making and awarding of contracts requiring bonds whenever proper. To also provide for the purchase of materials, supplies, and equipment through the Purchasing Bureau of the State Department of General Services whenever desirable.

(G) Drainage

(1) To provide, as far as necessary, for the draining of swamp and lowlands.

(2) With regard to a redetermination as to which lands continue to benefit from a prior drainage improvement project:

(i) At the request of the board of managers of a drainage association, the county council shall appoint a board of viewers to determine if the original determination as to which lands have benefited from the improvements has changed;

(ii) The board of viewers shall have the same qualifications, rights, powers, privileges, and duties as the original board of viewers;

(iii) The board of viewers shall report its findings to the county council. The report shall be considered in the same manner as the original report, including the same right to a public hearing and the right to judicial review; and

(iv) Any revision in the original determination as to which lands benefit from the improvements shall become the basis for all future assessments for paying for the

improvements, including related expenses such as damages, and the maintenance of the improvements.

(H) *Election Districts and Precincts*

To rearrange and create election districts and precincts.

(I) *Court Records*

To provide for recording, indexing and keeping indexed all records in the office of the clerk of the court, register of wills and of the records of the commissioners and county council to the extent that such matters are not provided for by general law.

(J) *Health and Nuisances*

To prevent, abate and remove nuisances; to prevent the introduction of contagious diseases into such county; and to regulate the places of manufacturing soap and candles and fertilizers, slaughterhouses, packinghouses, canneries, factories, workshops, mines, manufacturing plants and any and all places where offensive trades may be carried on, or which may involve or give rise to unsanitary conditions or conditions detrimental to health.

Nothing in this article or section contained shall be construed to affect in any manner any of the powers and duties of either the Secretary of Health and Mental Hygiene or the Secretary of the Environment or any public general laws of the State relating to the subject of health.

(K) *Highways, Bridges and Streets*

To provide for grading, shelling, graveling, paving and curbing, or for regrading, reshelling, regravelling, repaving, recurbing and repairing any street, road, lane, alley, footway, bridge, culvert, highway or public place within said county, or any part thereof, now or hereafter condemned, ceded, opened, widened, extended or straightened as public property; and for assessing the cost of any such work upon the assessable basis of the county; to compel by fine or penalty the owner or possessor of any lot to grade, regrade, pave, repave or repair the footways in front thereof; to regulate the opening of street surfaces.

(L) *Livestock*

To regulate the conditions under which dogs, cows, sheep, pigs, cattle and livestock of any and every kind may be at large, or may pass over the streets, roads, alleys, lanes, bridges, highways and public places.

(M) *Fish and Game*

To pass local fish and game laws.

(N) *Fences*

To regulate the making and keeping secure of fences and provide for the procedure to enforce the rights of the parties, and a lien for repairs, made by an owner not in default.

(O) *Assessments, Levy and Collection of Taxes*

To direct the class or subclass of improvements on land and personal property which shall be made subject to the county tax levy, and to provide for the levy thereupon and upon the value of land in accordance with Article 15 of the Declaration of Rights of the Constitution of Maryland as amended, of any sum which may be necessary to pay and discharge the principal and interest of any loan which may heretofore have been obtained, or which may hereafter be

obtained by such county, according to law, and to create a sinking fund to meet the liabilities thus incurred, and levy upon the property so subject to taxation from time to time such sums as may be necessary to provide therefor; as well as to collect from such property so subject to the levy such sums as may be necessary for the support and maintenance of the county government.

To provide for the prompt collection of all taxes due the county; and for the sale of real estate, as well as leasehold and personal property, for the payment of the same.

To rectify errors in the assessment of property; to provide for the reduction or abatement of assessments improperly made, and for the reimbursement of moneys paid in consequence of such errors.

To levy and collect taxes for the organization, operation, maintenance of libraries, fire and ambulance services, and other municipal services and to authorize the purchase, sale, construction, maintenance, and operation of all real and personal property necessary or incidental to such services, and to establish, modify, amend and abolish special taxing areas for any of the purposes enumerated in this article, except that nothing herein contained shall be construed to permit the modification or abolition of existing special taxing areas performing municipal services, (other than furnishing fire protection or library service) and governed or administered by a citizen's committee or a commission elected or appointed independently of the county council.

To levy and collect taxes to provide for the payment of additional retirement or disability benefits to such former employees of the county as may, in the opinion of the county council, be entitled to receive such additional benefits.

(P) Bonds or Evidences of Indebtedness

(1) To provide for the borrowing of moneys on the faith and credit of the county and for the issuance of bonds or other evidences of indebtedness therefor in such sums, for such purposes, on such terms and payable at such times, and from such taxes or other sources as may have been or may be provided by or pursuant to local law, subject to any limitations imposed by the charter adopted by the county and to the following limitations:

(i) The aggregate amount of bonds and other evidences of indebtedness outstanding at any one time shall not exceed a total of 6 percent of the assessable basis of real property of the county and 15 percent of the county's assessable basis of personal property and operating real property described in § 8-109(c) of the Tax - Property Article of the county, except that (a) tax anticipation notes or other evidences of indebtedness having a maturity not in excess of 12 months, (b) bonds or other evidences of indebtedness issued or guaranteed by the county payable primarily or exclusively from taxes levied in or on, or other revenues of, special taxing areas or districts heretofore or hereafter established by law, and (c) bonds or other evidences of indebtedness issued for self-liquidating and other projects payable primarily or exclusively from the proceeds of assessments or charges for special benefits or services, shall not be subject to, or be included as bonds or evidences of indebtedness in computing or applying, the limitations established in this section.

(ii) Any local law authorizing the borrowing of money or issuance of bonds or other evidences of indebtedness shall be submitted to the registered voters of the county for approval or rejection, if a petition for such submission is filed pursuant to the provisions of the charter and local laws of the county. If the charter contains no such provisions, any local law authorizing the borrowing of money or issuance of bonds or other evidences of indebtedness shall be submitted to the registered voters of the county for approval or rejection, if a petition for such submission, bearing the signatures of 10 per centum or more of such voters, is filed with the board of supervisors of elections of the county within 75 days after the enactment of such local law.

(2) To provide for the issuance of bonds or other obligations payable as to principal and interest and premium, if any, solely from the funds or revenues received from or in connection with any system, project, or undertaking, all or part of which is financed from the proceeds of such bonds or obligations. Bonds or obligations issued under this paragraph do not constitute an indebtedness of the county or a pledge of its faith and credit or taxing power, may be sold at private (negotiated) sale, and are not subject to the limitations of paragraph (1) of this subsection, Article 31, §§ 10 and 11 of the Code, or any provision of the issuing county's charter. Nothing in this paragraph shall be construed as a limitation on the power of a county to issue revenue bonds under the provision of any other applicable law.

(3) The bonds, notes, and any other evidences of obligation issued under this section, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of taxation by this State, or by any of its political subdivisions, municipal corporations or public agencies of any kind.

(Q) County Officers

(1) To provide for the appointment and removal of all county officers except those whose appointment or election is provided for by the Constitution or public general law, and to establish a merit system, if deemed desirable, in connection with the appointment of all county officials and employees not elected or appointed under the Constitution and the public general laws; to fix the qualifications and term of office of such county executive authority as may be established, and to fix its compensation; provided that the county council may enact local laws designed to prevent conflicts between the private interests and public duties of any county officers, including members of the county council, and to govern the conduct and actions of all such county officers in the performance of their public duties, and to provide for penalties, including removal from office, for violation of any such laws or the regulations adopted thereunder.

(2) To provide for the conduct of a special election to fill a vacancy in the county council that occurs upon the death or resignation of a member of the county council or on forfeiture of office by a member of the county council.

(R) Protection of County Credit

To prevent the credit of the county in any manner being given or loaned to or in aid of any individual, association or corporation.

(S) Amendment of County Charter

To pass any ordinance facilitating the amendment of the county charter by vote of the electors of the county and agreeable to Article XI-A of the Constitution.

The foregoing or other enumeration of powers in this article shall not be held to limit the power of the county council, in addition thereto, to pass all ordinances, resolutions or bylaws, not inconsistent with the provisions of this article or the laws of the State, as may be proper in executing and enforcing any of the powers enumerated in this section or elsewhere in this article, as well as such ordinances as may be deemed expedient in maintaining the peace, good government, health and welfare of the county.

Provided, that the powers herein granted shall only be exercised to the extent that the same are not provided for by public general law; provided, however, that no power to legislate shall be given with reference to licensing, regulating, prohibiting or submitting to local option, the manufacture or sale of malt or spirituous liquors.

(T) Road, Waste Disposal, Soil Erosion and Building Ordinances

To enact local laws enabling the county council to adopt from time to time, after reasonable notice and opportunity for public hearing and with or without modifications, ordinances and amendments thereof for the protection and promotion of public safety, health, morals, comfort and welfare, relating to any of the following: the location, construction, repair, and use of streets and highways; the disposal of wastes; the control of problems of soil erosion and of the preservation of the natural topography in newly developed and other areas; and the erection, construction, repair and use of buildings and other structures; and to enact local laws providing appropriate administrative and judicial proceedings, remedies, and sanctions for the administration and enforcement of such ordinances and amendments.

(U) County Board of Appeals

To enact local laws providing (1) for the establishment of a county board of appeals whose members shall be appointed by the county council; (2) for the number, qualifications, terms, and compensation of the members; (3) for the adoption by the board of rules of practice governing its proceedings; and (4) for the decision by the board on petition by any interested person and after notice and opportunity for hearing and on the basis of the record before the board, of such of the following matters arising (either originally or on review of the action of an administrative officer or agency) under any law, ordinance, or regulation of, or subject to amendment or repeal by, the county council, as shall be specified from time to time by such local laws enacted under this subsection: An application for a zoning variation or exception or amendment of a zoning ordinance map; the issuance, renewal, denial, revocation, suspension, annulment, or modification of any license, permit, approval, exemption, waiver, certificate, registration, or other form of permission or of any adjudicatory order; and the assessment of any special benefit tax: Provided, that upon any decision by a county board of appeals it shall file an opinion which shall include a statement of the facts found and the grounds for its decision. Any

person aggrieved by the decision of the board and a party to the proceeding before it may appeal to the circuit court for the county which shall have power to affirm the decision of the board, or if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing as justice may require. Any party to the proceeding in the circuit court aggrieved by the decision of the court may appeal from the decision to the Court of Special Appeals in the same manner as provided for in civil cases.

(V) *Recreation*

To enact local laws providing for the development and administration of a comprehensive recreational program including the construction, equipment and use of park, community center, and recreational buildings and facilities, the acquisition of sites therefor, including financial support for artistic, musical, and cultural public and private nonprofit organizations and activities, and the furnishing of recreational and other municipal services in connection therewith; and to exercise any power or authority conferred by the provisions of Article 25 of this Code, in the subtitle "Public Recreation and Parks".

(W) *Storm Drainage*

To enact local laws providing for the creation of a storm drainage district or districts and the levying of taxes therein, the financing, construction and maintenance of storm drainage projects, and the regulation of storm drainage facilities.

(X) *Planning and Zoning*

(1) (i) To enact local laws, for the protection and promotion of public safety, health, morals, and welfare, relating to zoning and planning, including:

1. The power to provide for the right of appeal of any matter arising under such planning and zoning laws to the circuit court, except as is provided in § 5(U) of this article. Any decision of the circuit court may be appealed to the Court of Special Appeals; and

2. The power to establish a program for the transfer of development rights.

(ii) To provide by ordinance that a violation of a zoning law or regulation enacted under this section may be a civil zoning violation. The violation shall be enforced as provided in Article 66B, § 7.02 of the Code.

(2) (i) It has been and shall continue to be the policy of this State that the orderly development and use of land and structures requires comprehensive regulation through implementation of planning and zoning controls.

(ii) It has been and shall continue to be the policy of this State that planning and zoning controls shall be implemented by local government.

(iii) To achieve the public purposes of this regulatory scheme, the General Assembly recognizes that local government action will displace or limit economic competition by owners and users of property.

(iv) It is the policy of the General Assembly and of this State that competition and enterprise shall be so displaced or limited for the attainment of the purposes of the State

policy for implementing planning and zoning controls as set forth in this article and elsewhere in the public local and public general law.

(v) The powers granted to the county pursuant to this paragraph shall not be construed:

1. To grant to the county powers in any substantive area not otherwise granted to the county by other public general or public local law;
2. To restrict the county from exercising any power granted to the county by other public general or public local law or otherwise;
3. To authorize the county or its officers to engage in any activity which is beyond their power under other public general law, public local law, or otherwise; or
4. To preempt or supersede the regulatory authority of any State department or agency under any public general law.

(Y) County Board of Health

To organize and establish a county board of health to act instead of the county council as the county board of health under Title 3, Subtitle 2 of the Health - General Article.

(Z) Federally Assisted Watershed Programs

To have the same powers enumerated in subsection (dd) of § 3 of Article 25 of this Code.

(AA) Commission to Establish Compensation for County Councils

To establish by ordinance a commission empowered to set compensation and allowances to be paid to members of county councils. When established, the commission shall set the compensation and allowances within 15 days after the beginning of the fourth year of the term of each council. The commission by resolution shall submit its determination for compensation and allowances to the county council. The commission may recommend an increase or decrease in the compensation paid to members of the county council, but in no event may compensation or allowances be less than provided in the charter of the respective counties. Upon receiving the resolution, the council may reduce or reject the commission's recommendation, but it shall not increase any item in the resolution. The recommendations contained in the resolution shall become effective upon the adoption by the council of an ordinance encompassing the recommendations, but the salary specified at the time a council takes office shall not change for that period during which the council was elected.

The ordinance making any change in the salary paid to members of the county council shall be ordained prior to the election for the members of the next succeeding council and take effect only for the members of the next succeeding council.

(BB) Historic and Landmark Zoning and Preservation

To enact laws generally for historic and landmark zoning and preservation or to enact those laws in accordance with the provisions of Article 66B, § 8.01 et seq., or to enact such laws to be administered generally by an Historic District Commission and to provide for appeals. The authority conferred by this subsection shall be in addition to any existing charter provisions or local law providing for planning and zoning.

(CC) *Waiver of Sovereign Immunity*

Repealed.

(DD) *Commercial or Industrial Redevelopment Projects*

To make use of federal or State financial assistance for commercial or industrial redevelopment projects for the purpose of making grants, loans, or guaranteeing loans to private entities; provided, that the authority granted by this subsection may be used only for commercial or industrial redevelopment projects and may not be used for residential or housing projects.

(EE) *Conditioning Acceptance of Certain Land Development*

To enact local laws conditioning the acceptance of any development of land for residential purposes approved by appropriate local authorities upon a demonstration, acceptable to local authorities, of compliance by the developer with the pertinent underground electric and telephone residential service regulations, including those pertaining to deposits, promulgated by the Public Service Commission of Maryland.

(FF) *Commercial District Management Authority*

In accordance with the provisions of this subsection, to establish a commercial district management authority for any commercial district within its geographical limits.

(1) As to each authority it establishes, the county governing body:

(i) Shall specify the membership, organization, jurisdiction, and geographical limits of the authority;

(ii) Shall specify one or more of the following as the purposes of the authority:

1. Promotion;
2. Marketing; and
3. The provision of security, maintenance, or amenities within the

district;

(iii) May specify the provisions of the county charter or local law relating to personnel, procurement, or similar operational matters that apply or do not apply to the authority, except that minority business enterprise procurement and equal employment opportunity laws may not be waived;

(iv) May approve the annual budget of the authority if the county governing body levies an ad valorem tax to support the authority; and

(v) May provide such financing as it deems appropriate for the authority through fees which may be charged to, or taxes which may be levied against, businesses subject to the authority's jurisdiction.

(2) An authority established pursuant to this subsection may not:

(i) Exercise the power of eminent domain;

(ii) Purchase, sell, construct, or, as a landlord, lease office or retail space; or

(iii) Except as otherwise authorized by law, otherwise engage in competition with the private sector.

(3) Any fees or taxes imposed under this subsection shall be used only for the purposes stated in this subsection and may not revert to the general fund of the county.

(4) The county governing body may establish an authority pursuant to this subsection as a special taxing district.

Section 5A. Power to Displace or Limit Competition.

(a) *Public transportation.* (1) It has been and shall continue to be the policy of the State to authorize each chartered county to displace or limit competition in the area of public transportation in order to provide for adequate, economical, and efficient delivery of transportation services; to protect its citizens from inconsistent and excessive prices; to provide necessary and desired services in all areas of the county; to enable the county to provide public transportation in order to conserve energy and reduce air pollution, congestion, traffic hazards and accidents; to encourage the use of public transportation by the contribution by the county of capital and operating funds to enable transportation to be provided at the lowest cost to all citizens, especially the indigent; and to promote the general welfare by conducting a comprehensive transportation system.

(2) Each chartered county has the authority to grant one or more franchises for a transportation system on an exclusive or nonexclusive basis, to impose franchise fees, to establish certain rates, to establish rules, regulations, and licensing requirements to govern the operation of the franchises, to provide for the enforcement of any such measure, and to conduct a public transportation system on an exclusive basis, including the establishment of rules, regulations, and rates, notwithstanding any anticompetitive effect.

(b) *Water and sewer systems.* (1) It has been and shall continue to be the policy of the State to authorize each chartered county to displace or limit competition in the area of water and sewerage systems in order to assure delivery of adequate, economical, and efficient services to its citizens, to avoid duplication of facilities, to provide for the health and safety of its citizens, to control disease, to prevent blight and other environmental degradation, to utilize efficiently the public right-of-way; to protect limited natural resources for the benefit of the citizens of the county; and to promote the general health and welfare by providing for adequate water and sewerage systems.

(2) (i) Each chartered county has the authority to grant one or more franchises or enter into contracts for water and sewerage systems on an exclusive or nonexclusive basis to any person, to impose franchise fees, to establish certain rates and charges, and to establish rules, regulations, and licensing requirements and to provide for the enforcement of any such measure notwithstanding any anticompetitive effect.

(ii) In the event that a chartered county has the enabling authority granted by any other law to operate water and sewerage systems, such systems shall be operated by such county without regard to any anticompetitive effect.

(3) It has been and shall continue to be the policy of the State that each chartered county is directed and authorized to exercise all powers regarding waste collection and disposal notwithstanding any anticompetitive effect. This subsection does not apply to any

portion of a generator's waste which is directed by the generator to a specific facility for reuse, reclamation or recycling, or for disposal on its own property.

(c) *Publicly owned or leased land.* (1) It has been and shall continue to be the policy of the State to authorize each chartered county to displace or limit competition in the award of concessions on, over or under property owned or leased by the county and in the leasing or subleasing of property owned or leased by the county in order to utilize properly the assets of the county for the best public purpose; to provide necessary or desirable governmental services at the lowest possible cost; to protect the public from unscrupulous business practices and excessive prices; to provide for the accessibility to public property by as many citizens as possible; and to promote the general welfare by utilizing public property for the benefit of the citizens of the community.

(2) Each chartered county has the authority to displace or limit competition by granting one or more franchises for any concession on, over or under property owned or leased by the county on an exclusive or nonexclusive basis, to control prices and rates for such franchises; and to establish rules and regulations to govern the operation of the franchises and to provide for the enforcement of any such measure; and to lease or sublease publicly owned or leased land, improvements to land or both on terms to be determined by the county without regard to any anticompetitive effect.

(d) *Construction of Grant of Power.* The powers granted to any county pursuant to this section shall not be construed:

(1) To grant to such county powers in any substantive area not otherwise granted to such county by other public general or public local law;

(2) To restrict such county from exercising any power granted to such county by other public general or public local law or otherwise;

(3) To authorize such county or its officers to engage in any activity which is beyond their power under other public general law, public local law, or otherwise; or

(4) To preempt or supersede the regulatory authority of any State department or agency under any public general law.

Section 6. Separability.

Any judicial declaration of the invalidity or unconstitutionality of any clause or power herein set forth shall not be construed to declare invalid any other part of this article or of this article as a whole.

Publication of Laws

Section 7. Compilation of laws enacted; copies; statement as to referendum; annual inquiry; noncompliance; printing and indexing.

(a) *Compilation of laws enacted during calendar or fiscal year.* (1) At the end of each calendar or fiscal year, each charter county shall furnish in a convenient and legible

compilation a complete set of all laws enacted during that year under the “Express Powers Act” in § 5 of this article, whether to enact, amend, or repeal a local law.

(2) The laws in the compilation shall be in numerical sequence, beginning with No. 1, and in a separate series for each year.

(b) *Same – Distribution of copies – Generally* (1) Copies of this compilation shall be:

(i) Made available for inspection at the office of the county council, county executive, or county manager, during normal business hours; and

(ii) Kept on permanent record in the same office.

(2) Each charter county shall:

(i) Furnish printed copies of the compilation to the State Archives and the State Law Library; and

(ii) Once each year:

1. Notify each member of the county’s legislative delegation that a digital copy of the compilation is available on the Internet; or

2. Furnish a printed copy of the compilation to each member of the county’s legislative delegation.

(3) Copies under paragraph (2) of this subsection shall be furnished without charge, and the county also may make other copies available at a reasonable cost to any person.

(c) *Same – Same – State Department of Legislative Services.* Not later than March 1 of the next succeeding year, the charter county, without charge, shall furnish 4 printed copies of the compilation to the State Department of Legislative Services.

(d) *Statement as to referendum.* (1) Each charter county shall provide to the State Department of Legislative Services a statement concerning any referendum on any proposed local law.

(2) The statement shall include information on the results of any referendum held during the year, and it shall include information as to any referendum pending actually or potentially, but not yet held, at the end of the year.

(e) *Annual inquiry as to laws enacted, amended or repealed.* (1) At the end of each calendar year the State Department of Legislative Services shall address an inquiry to each charter county inquiring whether or not during that calendar year or its latest fiscal year it has enacted, amended or repealed any portion of its laws under the “Express Powers Act”.

(2) The charter county shall promptly answer the inquiry and shall verify that printed copies of all such enactments, amendments, or repeals have already been sent to the Department.

(f) *Noncompliance.* (1) If the charter county fails or refuses to supply printed copies of this compilation and of the results of any referenda thereon to the State Department of Legislative Services by March 1 of the next succeeding year, or fails or refuses to certify that there have been no such enactments, amendments, or repeals, or referenda, during the last calendar or fiscal year, the Department shall promptly certify that fact to the State Comptroller,

who then may order the discontinuance of all funds, grants or State aid which the charter county is entitled to receive under State law.

(2) This section refers specifically to all funds, grants or State aid which the charter county is entitled to receive under applicable provisions of State law relating to the income tax, the tax on racing, the recordation tax, the admissions and amusement tax, and the license tax.

(g) *Printing and indexing of compilations and statements.* (1) The State Department of Legislative Services shall receive the compilations and statements delivered to it.

(2) The titles of the laws of the several charter counties which amend their codes of public local laws shall be arranged in a logical and convenient order and shall be delivered to the State printer for inclusion in the Session Laws of the General Assembly for its regular session in that year.

(3) The titles of the laws of the charter counties which amend their codes of public local laws shall be printed and identified as such, and they shall be indexed with or in a supplemental volume to the laws enacted by the General Assembly.

(h) *Copies to be provided free of charge to certain State agencies.* Whenever the county council of any county in this State publishes or issues in printed, mimeographed, or similar duplicated form a code or compilation containing all or a portion of the public local laws of the county, the council shall deposit printed copies free of charge with the following State agencies: State Archives, 1 copy; State Law Library, 1 copy; State Department of Legislative Services, 5 copies.

Referendum

Section 8. Power of Referendum.

(a) *Reservation of power of referendum.* The citizens of a chartered county have the right to reserve to themselves the power of referendum by which they may, by petition, submit to the registered voters of the county any local law, or portion of any local law, enacted in accordance with the legislative procedure of the county council. If reserved, this right shall be set forth in the charter of the county which shall specify the types of local laws which may be petitioned to referendum and whether portions of laws may be petitioned to referendum.

(b) *Time, notice and form for exercise of power.* In implementing procedures relating to the power of referendum, the county charter or the local laws enacted in accordance with the legislative procedure of the county council shall provide adequate details with respect to time, notice, and form. However, in no event may the initial notice that a local law, or a portion of a local law, which is to be the subject of a referendum vote, be less than 30 days before the election at which the law, or a portion thereof, is submitted to the voters of the county.