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# HANDBOOK

## Ohio County Commissioners

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## CHAPTER 2

# COUNTY STRUCTURAL OPTIONS

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### 2.01 INTRODUCTION

Article X, Section 1 of the Ohio Constitution provides that “the General Assembly shall provide by general law for the organization and government of counties”. Under this constitutional mandate, the General Assembly has passed laws that together establish what is generally referred to as the general statutory form of county government described in Chapter 1.

This same section of the Ohio Constitution also allows for alternative forms of county government. Alternative forms of government must be approved by a majority of those voting on the change. Some legal scholars maintain that this section of the Constitution also permits regional government or governmental services by providing that:

"Municipalities and townships shall have authority with the consent of the county, to transfer to the county any of their powers or to revoke the transfer of any such power, under regulations provided by general law, but the rights of initiative and referendum shall be secured to the people of such municipalities or townships in respect of every measure making or revoking such transfer, and to the people of such county in respect of every measure giving or withdrawing such consent."

This provision requires that the General Assembly provide by general law for the transfer and revocation of the transfer of power and the securing of initiative and referendum rights with respect to such transfers or revocations. The General Assembly has not, to date, so provided. ORC Sections 307.14-307.19 do, however, contain provisions for the county and other subdivisions to enter into contracts whereby the county will exercise any power, perform any function, or render any service on behalf of the contracting subdivision.

Some persons might confuse the transfer of power granted by the Ohio Constitution with the provision for transfer of powers and functions allowed under ORC Sections 307.14-307.19. These sections allow the county and other subdivisions to enter into contracts whereby the county will exercise any power, perform any function, or render any service on behalf of the contracting subdivision. However, this is a contractual arrangement under which the county agrees to perform another subdivision's function with the subdivision's consent, and does not constitute a transfer of that function from the subdivision. Under the constitutional "transfer of power," the subdivision would transfer its power to do something completely to the county; under the existing contract authorization, the subdivision can always regain the power simply by arranging for termination of the contract.

Ohio counties have two options for structural change - county charters and a statutory alternative form of county government. Provisions relating to county charters are contained in both the Constitution and statutes as follows:

- Ohio Constitution, Article X, Section 3.
- Ohio Constitution, Article X, Section 4.
- ORC Sections 301.22 - 301.24.
- ORC Sections 307.94 - 301.99.

The alternative form of county government is authorized in ORC Chapter 302 and is also referred to in ORC Section 301.22.

## **COUNTY CHARTERS**

### **2.02 GENERAL INFORMATION**

In 1933, the Ohio Constitution was amended to specifically authorize the adoption of county charters after the establishment of a county charter commission. In 1978 the Constitution was again amended to also allow county charters to be submitted directly to the electors by petition of the citizens who would frame a charter without the establishment of a county charter commission.

In 1934, proposals to establish county charter commissions to draft charters were submitted to the electors of eight counties and were approved in four---Cuyahoga, Hamilton, Lucas, and Mahoning. Charter commissions were rejected in Summit, Stark,

Franklin and Montgomery counties. In 1935 county charters in these four counties were submitted to the voters. Only in Cuyahoga County did the charter receive a majority favorable vote.

The Cuyahoga County charter was, however, challenged in the Ohio Supreme Court (State ex rel Howland v Krause, Board of Elections of Cuyahoga County 130 Ohio St 455). The Supreme Court held that the charter could not go into effect because the charter vested municipal powers in the county, and while it had been approved countywide and by residents of Cleveland, that it also had to receive a majority favorable vote in the county outside of Cleveland and in each of a majority of the combined total of municipalities and townships within the county. This is commonly referred to as the "multiple majority requirement".

Section 3 of Article X of the Constitution was amended in 1957 to make it clear that the "multiple-majority requirement" is applicable only in those cases in which "a charter or amendment provides for the exclusive exercise of municipal powers by the county or provides for the succession by the county to any property or obligation of any municipality or township without the consent of the legislative authority of such municipality or township...". The requirement for these "multiple majorities," however, does not apply when a charter is limited to the form of government, specifies which officers are to be elected and the manner of their election, and provides for the exercise of powers vested in counties and county officers by general law.

Since 1957 efforts to enact county charters have been limited. Two proposed charters in Summit County and one in Columbiana County were defeated. Then in 1979 a county charter was adopted in Summit County. The enactment of the [Summit County Charter](#) followed the 1978 amendment to the Ohio Constitution that allowed for the direct submission of a charter to the electors, and the subsequent enactment of ORC Sections 307.94 to 307.99.

In November, 2009 the electors of Cuyahoga County adopted a county charter, making it Ohio's second charter county. The [Cuyahoga County Charter](#) took effect in January, 2011.

This Chapter provides a brief summary of the major provisions of the Constitution and law pertaining to charters and the statutory alternative form of government. Care should be taken in using this Chapter for definitive guidance because the case law and interpretations of these provisions are limited and often contradictory.

### **2.03 REQUIRED PROVISIONS OF A CHARTER**

All charters must contain the following provisions:

1. The form of government of the county.

2. The officers that will be elected and the manner of their election. This provision allows for the elimination of county elected offices. This is the primary reason charters are so controversial. For example, the Summit County charter has eliminated the elected county coroner and has replaced it with an appointed medical examiner. This was accomplished after the original adoption of the charter through a charter amendment. Other charter amendments have eliminated the elected offices of auditor, treasurer and recorder, and replaced these elected officials and their functions with an elected fiscal officer. The original Summit County charter retained all elected officers other than the county commissioners, and provided for a county elected executive and a seven member county council. A subsequent charter amendment increased the number of council members from seven to eleven. The Cuyahoga County charter eliminated all elected officials with the exception of the prosecuting attorney. The replacements for the other elected officials are appointed by the elected county executive with the approval of the elected county council.
3. Provision for the exercise of all power vested in counties and provision for the performance of duties imposed upon counties or county officials by general law.

#### **2.04 PERMISSIVE PROVISIONS OF A CHARTER**

In addition to the previously enumerated required provisions of a charter, the following provisions may be included in a charter:

1. The concurrent or exclusive exercise of all or of any designated powers given to municipalities by either the Constitution or statute. This could apply to the entire county or only to a portion of a county.
2. The organization of the county as a municipal corporation.
3. If the charter provides for concurrent or exclusive exercise of municipal powers by the county or for organization of the county as a municipality, it may then have provisions relating to succession by the county to the rights, properties, and obligations of the municipalities and townships. In addition, such a charter may divide the county into districts for purposes of administration, taxation, or both.
4. The establishment of a civil service commission or personnel office or department. If such a commission or department is established, and if the charter provides that employees will be appointed on the basis of merit by competitive exam, the civil service law (ORC Chapter 124) does not apply to the charter county.

5. The establishment of a county department for the administration of public health services. If a health department is established pursuant to a charter it must exercise all powers that are vested in city or general health districts. The effect of such a charter provision is to abolish all health districts in the county.

If there is a conflict between powers granted by a county charter and those of a municipality or township granted by general law or the Constitution, the power of the municipality or township prevails, unless the charter is one that requires the multiple majority requirement.

## **2.05 VOTE ON COUNTY CHARTER**

Before any charter that alters the form and offices of county government or that provides for the concurrent exercise of municipal or township powers by the county is adopted or amended it must be approved by a majority of those voting in the county.

If the proposed charter or amendment provides for the exclusive exercise of municipal or township powers by the county or for the succession by the county to any property or obligation of a municipality or township without the consent of their legislative authorities, it must obtain "multiple majorities" as follows:

1. A majority in the county.
2. A majority in the largest municipality.
3. A majority in the county not including the largest municipality.
4. A majority vote in each of a majority of the combined total of municipalities and townships in the county if the county is 500,000 or less in population.

If more than one charter is being considered at the same election, the one receiving the greatest vote more than a majority becomes effective.

## **2.06 METHODS TO SUBMIT A COUNTY CHARTER TO VOTERS**

There are three methods by which a county charter may be submitted to the voters of the county:

1. If the county commissioners receive a petition from 10 percent of the electors of the county with a proposed charter attached to the petition it must be submitted to the voters. Procedures using this method will be discussed later.
2. If a petition from 10 percent of the electors of the county with a proposed charter attached is submitted to the board of elections and sufficient valid signatures are contained in the petition, the board of elections submits it to the county commissioners and it must then be submitted to the voters.

3. If a county charter commission has been formed, the commission drafts the charter and submits it to the voters. The procedures to submit the charter under this process will be described later.

## **2.07 FORMATION OF COUNTY CHARTER COMMISSION**

A county charter commission is created only after a vote of the electors of the county at the general election. The question "Shall a county charter commission be chosen?" will be submitted to the voters if:

1. The county commissioners adopt a resolution to submit the question to the voters.
2. The county commissioners must adopt a resolution to submit the question if petitioned by 8 percent of the electors of the county.

After the commissioners certify the resolution to the board of elections, the question will be placed on the ballot at the first general election after 95 days have passed from the date of certification of the resolution to the board of elections. At the same general election, voters will vote for a 15 member charter commission in the event the electors vote to establish the charter commission.

## **2.08 ELECTION OF COUNTY CHARTER COMMISSION**

Candidates for election to the county charter commission are nominated by a petition of one percent of the electors of the county. Petitions must be filed with the board of elections at least 75 days before the election. The 15 candidates receiving the greatest number of votes are elected except that:

1. No more than seven persons from the same city or village may be elected.
2. No more than four public office holders may be elected.

The county commissioners or legislative authority of a charter county must appropriate sufficient funds and pay all reasonable expenses of the charter commission.

## **2.09 SUBMISSION OF CHARTER TO ELECTORS BY COUNTY CHARTER COMMISSION**

The county charter commission must frame a charter and, by a majority vote, submit it to the electors at the next general election following the election of the commission. The charter must be certified to the board of elections at least 75 days before the election.

## 2.10 PROCEDURES TO SUBMIT A CHARTER BY PETITION

There are two ways that citizens may directly submit a proposed charter to the electors of the county:

1. A petition signed by 10 percent of the voters with a charter attached may be filed with the county commissioners. The following procedures then apply:
  - a. The petition must be filed at least 110 days before the general election.
  - b. The petition must be available for public inspection at the office of the county commissioners until 4 p.m. of the 111th day before the general election.
  - c. The county commissioners must then certify the petition to the board of elections by resolution.
  - d. The county commissioners may refuse to certify the petition if the signatures are insufficient or if the petition is otherwise invalid.
  - e. The board of elections then determines if the petition is valid and reports to the county commissioners not less than 100 days before the election.
2. The petition may also be submitted directly to the board of elections. The following procedures apply if this method is used:
  - a. The petition must be filed 130 days before the election.
  - b. The board of elections examines the petition for valid signatures and other requirements of law and reports to the county commissioners at least 120 days before the election. This report must be available for public inspection at the board of elections.
  - c. If the board of elections certifies that the petition is valid, the commissioners must certify the petition by adopting another resolution and certifying it back to the board of elections by 4 p.m. on the 111th day before the election.

The law requires that petition must designate a committee of petitioners from three to five members and must comply with ORC Section 3501.38

The law also establishes detailed procedures to be followed if the board of elections determines that the petition is invalid or if there is an insufficient number of signatures. Although these are very complicated, the following options exist:

1. The decision of the board of elections may be appealed, with the Secretary of State making the final determination.
2. The decision may be appealed to the common pleas court.
3. If it is determined by the Secretary of State that there is not an adequate number of signatures, 10 additional days are given to obtain additional valid signatures.

If problems arise or protests are made, the committee of petitioners is the responsible group.

## **2.11 PROVISION IF PETITION IS DETERMINED TO BE INVALID AND PROTESTS**

ORC Sections 307.94 and 307.95 provide detailed procedures if either the board of county commissioners or the board of elections determines that the charter petition is invalid or the signatures are insufficient. Once the board of elections receives a petition, it must determine if the petition and the signatures on the petition meet the requirements of law and it must also count the number of valid signatures and must note the reason it has determined any signature is invalid.

If a petition is certified by the board of elections to be invalid or if it has an insufficient number of signatures, the petitioners' committee may protest such a finding or may solicit additional signatures. The petitioners' committee may also request a determination of the validity of the petition or the sufficiency of the petition by action in the common pleas court. If such a request is made, the board of elections must file the action with the common pleas court within three days after receipt of the request from the committee for the petitioners. The court must then make a determination in sufficient time that the commissioners may certify the petition to the board of elections not later than 4:00 p.m. on the 111<sup>th</sup> day before the general election.

Protests of the determination by the board of elections on the invalidity of the petition or that there are insufficient signatures may also be filed by any eligible elector with the board of elections not later than the 97<sup>th</sup> day before the general election. Such a protest must be delivered to the Secretary of State, who must rule on the protest within 10 days of receipt from the board of elections.

If the Secretary of State finds that there is an insufficient number of valid signatures on the petition, the petitioners' committee is notified and has an additional 10 days to gather additional signatures. These additional signatures must be filed with the board of elections not less than 70 days before the general election.

## **2.12 FILING OF ITEMIZED STATEMENT WITH COUNTY COMMISSIONERS**

The circulator of a county charter petition, within five days of filing a charter petition with the commissioners, must file a sworn itemized statement with the commissioners showing:



1. All moneys or things of value paid, given, or promised for circulating such petition;
2. Full names and addresses of all persons to whom such payments or promises were made;
3. Full names and addresses of all persons who contributed anything of value to be used in circulating such petitions;
4. Time spent and salaries earned while circulating or soliciting signatures to petitions by persons who were regular salaried employees of some person who authorized them to solicit signatures for or circulate the petition as a part of their regular duties.

The itemized statement is not required from persons who take no other part in circulating a petition other than soliciting signatures.

Finally, no person shall, directly or indirectly:

1. Willfully misrepresent the contents of a county charter petition;
2. Pay or offer to pay any elector anything of value for signing a county charter petition;
3. Promise to help another person to obtain an appointment to any office or any state or local government position or employment for obtaining signatures.
4. Obtain signatures as a consideration for the assistance or promise of assistance of another person to secure an appointment to any office or position with the state or any local government.
5. Accept anything of value for signing a county charter petition;
6. By intimidation or threats, influence any person to sign or abstain from signing, or to solicit signatures to or abstain from soliciting signatures.

### **2.13 NOTIFICATION REQUIREMENTS**

Each elector must receive a copy of a proposed charter at least 30 days before the election. In addition, any charter must be posted at each polling place.

### **2.14 AMENDMENTS TO AN EXISTING CHARTER**

Amendments to an existing charter may be initiated in three ways.

1. An amendment proposed by a county charter commission is submitted to the electors at the next general election after the election of the commission. The amendments must be certified to the board of elections 90 days before the election. The legislative authority of a charter county, by a two-thirds vote, may submit amendments by certifying its resolution to the board of elections at least 60 days before the next general election.
2. If the legislative authority of the charter county receives a petition signed by 8 percent of the electors it must adopt a resolution submitting the amendment at the next general election that occurs at least 60 days after the resolution is certified to the board of elections.

Each amendment must relate to only one subject even though it may affect more than one section of the charter. If more than one amendment is to be submitted to the electors at the same election, the electors must be able to vote on each separately. If the provisions of amendments conflict, the one with the greatest vote more than a majority becomes effective.

## **2.15 NOTIFICATION REQUIREMENTS**

A copy of each proposed charter amendment must be mailed or otherwise distributed to each elector at least 30 days before the election, or the full text of the amendments may be published in a newspaper once a week for two consecutive weeks. In addition, any charter amendment must be posted at each polling place.

## **2.16 EXPENSES TO ADOPT OR AMEND CHARTERS**

The county commissioners or legislative authority of a charter county must appropriate money for the expenses of a county charter commission in the enactment or amendment of a charter and to study the problems involved.

The county commissioners must also appropriate funds to print and distribute a copy of a proposed charter to each elector in the county. Funds must also be provided for the printing, distribution, or publication of proposed amendments, but only if they are proposed by a county charter commission. No funds may be spent for compensation to members of a county charter commission.

## **2.17 EFFECTIVE DATE OF CHARTERS**

All proposed charters or amendments to existing charters become effective 30 days after approved at an election, unless a different date is specified in the charter.

## **2.18 RESUBMISSION OF DEFEATED CHARTERS OR AMENDMENTS**

When a charter or amendment has been defeated, the county charter commission may resubmit it to the electors. This can only be done once, and must be at the next general

election or any other election held throughout the county that precedes the general election. The charter commission may make revisions. The same procedures apply as if it were an original charter.

## **2.19 REPEAL OF COUNTY CHARTER**

There are two methods to submit the question of the repeal of a county charter to the electors:

1. The legislative authority of the charter county adopts a resolution to submit the question of repeal.
2. The legislative authority of the charter county must adopt a resolution to place the question of repeal before the electors if it receives a petition signed by 8 percent of the electors of the county. In either case, the question appears at the first general election after at least 60 days has passed since the resolution was certified to the board of elections.

## **2.20 LEGISLATIVE POWERS UNDER A CHARTER**

The adoption of a county charter has been described by the Attorney General (OAG 85-047) as a way by which "the people of any county may increase the authority of their county government." Article X, Section 3 of the Ohio Constitution states in part that county charters "may provide for the concurrent or exclusive exercise by the county....of all or of any designated powers vested by the Constitution or laws of Ohio in municipalities". This language, the Attorney General has opined (also in OAG 85-047), authorizes counties to exercise substantially the same powers of local self-government and police and sanitary powers as are granted to municipalities.

These are very broad legislative powers, since the Constitution grants municipalities all powers of local self-government and the power to adopt and enforce within their limits such local police, sanitary and other similar regulations as are not in conflict with general laws. Essentially, subject to the limitations discussed below, counties which adopt charters which contain the above quoted provision may enact legislation in whatever areas appear appropriate, whether or not they have explicit authority to do so under state statutes. However, there are two major limits on counties' legislative powers pursuant to a charter:

1. A charter must "provide for the exercise of all powers vested in, and the performance of all duties imposed upon counties and county officers by law".
2. In the event of conflict between a county's exercise of legislative power and a municipality's or township's, the municipality's or township's power will prevail.

Thus, for example, while a charter county may transfer the sheriff's power to run jails to another county official, it may not simply eliminate the duty of the county to run jails.

This duty is imposed on counties by law and a charter cannot authorize a county to disregard it.

Also, if a county and a municipality or township legislate on the same subject, in the event of conflict the municipality's or township's legislation will prevail within its territory. Of course, if a county charter provides for the exclusive exercise of power by the county, the issue of conflict does not arise; but the adoption of the charter is then subject to the "multiple majorities" requirement discussed in Section 2.05 of this Chapter.

A further restriction on county legislative power under a charter has been addressed by the Attorney General. In OAG 89-106, the Attorney General discerned a limitation, similar to the "statewide concern" doctrine for municipalities, inherent in Article X, Section 3 of the Ohio Constitution which prohibits charter counties from setting fees for sheriffs' and recorders' services which are different from the fees imposed by statute.

In other opinions, the Attorney General has approved the regulation by a charter county of the construction of agricultural buildings not used in the business of retail trade (OAG 89-025); approved the appointment, pursuant to a charter, of officials who are elected under state law, and approved a provision for the transfer of duties which are imposed on one county official by state law to another county official (OAG 85-039); and approved, so far as Article X, Section 3 of the Constitution is concerned, the establishment of an escrow fund by a county treasurer for the prepayment of real estate taxes, although this proposal was found to be prohibited under another section of the Constitution (OAG 85-047).

In other opinions in more recent years, the Attorney General has found a number of restrictions on the operation of county government in Summit County. The Summit County charter grants no authority to the county executive, through the establishment of an audit committee or a department of internal auditing, to examine the financial operations of the probate division of the Summit County Court of Common Pleas. (OAG 2001-020). Nor can the county executive or county council mandate the adoption of personnel policies and procedures by the probate division of the Summit County Court of Common Pleas. (OAG 96-043).

Neither the county executive nor the county council, absent a contrary provision in the charter or absent an appointment of legal counsel by the court of common pleas under ORC 305.14 (A), have the authority to bring an action for the recovery of monies found by the State Auditor to be owed to the county. This action must be brought by the county's prosecuting attorney. OAG 95-035.

The Attorney General also has opined that a charter county may not bring any of the following agencies under the direct control of the county executive or the county council: county DD board, children's services board, veterans services commission or county ADAMH board. (OAG 94-095).

## **ALTERNATIVE FORM OF COUNTY GOVERNMENT**

### **2.21 OVERVIEW OF ALTERNATIVE FORM**

There are two primary differences between a county charter government and an alternative form of county government. First, an alternative form adopted under current law does not permit the abolishment of any county elected official, as is possible under a charter. Second, and unlike a charter which has almost total flexibility as to content, the alternative form law is quite specific and is thus more limited in scope.

The alternative form of county government law (ORC Chapter 302) was adopted by the General Assembly in 1961 (HB 855). There have been only sporadic attempts to enact this form of government since that time, most recently in Delaware County in 1991. No county now operates under an alternative form of county government.

The alternative form of county government concentrates on the enlargement of the board of county commissioners, the appointment of an appointed or elected executive, and the establishment of a series of departments. Under this form of government, county commissioners become the policy making body of the county and the county executive performs those administrative and executive functions that are the responsibility of county commissioners in a general statutory form of government.

### **2.22 INITIATION OF ALTERNATIVE FORM**

An alternative form of county government may be initiated in two ways:

1. The county commissioners may adopt a resolution to place an alternative form on the ballot.
2. The county commissioners must submit an alternative form if it receives a petition from three percent of the electors of the county.

The alternative form is then voted on at the next general election that occurs at least 90 days after the resolution is certified to the board of elections by the county commissioners.

### **2.23 STRUCTURAL OPTIONS FOR ALTERNATIVE FORM**

If an alternative form is submitted to the electors the following options are possible:

1. The alternative form must include either an elected county executive or an appointed county executive.
2. The alternative form must specify the number of members that will serve on the board of county commissioners, the number to be elected at large, and the number to be elected by district.

## **2.24 REQUIREMENTS FOR A BOARD ELECTED AT LARGE**

When the alternative form involves a board of county commissioners to be elected entirely at large, the board must be composed of three, five, seven, or nine members and this must be specified on the ballot. This applies to both the elective executive plan and the appointive executive plan. Following is the form of the ballot question:

Shall the county of \_\_\_\_\_ adopt the form of county government known as the county (name of plan) plan with a board of (number) county commissioners elected as provided for in sections 302.01, inclusive, of the Revised Code?

For adoption of the county (name of plan) plan.

Against adoption of the county (name of plan) plan.

The salary of the new board of county commissioners is the same as for other county commissioners as established in ORC Section 325.10. The law is also quite specific concerning transitional elections when the number of members of the board is increased or decreased by the alternative form, however, this is too detailed for this Handbook. It may be said, however, that depending on the number to be elected, a specified number are elected to four-year terms and others to two-year terms initially. Unlike the statutory form or an alternative form where commissioners are elected by districts, those candidates receiving the greatest number of votes are elected in that order. After the initial election, all terms are four years.

## **2.25 REQUIREMENTS FOR A BOARD ELECTED BY DISTRICTS**

When the alternative form provides that any commissioner will be elected by district, the board of county commissioners may consist of any odd number of at least three but not more than 21 commissioners. If there are to be seven or more county commissioners, not more than half may be elected at large.

In addition, the alternative form proposal using districts must establish the compensation of the commissioners as a percent of the salary established by ORC Section 325.10. Finally, the board of elections must display a map showing commissioner districts at each precinct on Election Day. The form of the ballot is as follows:

Shall the county of \_\_\_\_\_ adopt the form of county government known as the county (name of plan) plan with a board of (number) county commissioners, of which (number) shall be elected at large and (number) shall be elected by districts, as provided for in sections 302.01 to 302.24, inclusive, of the ORC, under which form each county commissioner shall receive annual

compensation equal to (number) percent of that provided in Section 325.10 of the ORC?

( ) For adoption of the county (name of plan) plan.

( ) Against adoption of the county (name of plan) plan.

Under the district representation approach, the total number of commissioners is elected at the next regular state election after approval of the alternative form. The board of elections assigns a number to each county commissioner position. Candidates for commissioner then file to be elected to a specifically numbered district. At the first election, the odd-numbered positions are four year terms and the even-numbered positions are two year terms. Subsequent terms, however, are four years in length.

## **2.26 ESTABLISHMENT OF COUNTY COMMISSIONER DISTRICTS**

There are three methods by which county commissioner districts may be established:

1. If the alternative form proposal does not detail the districts, it is the responsibility of the board of elections to create the districts at least 45 days before the election.
2. It is possible that the districts could be drawn and submitted with the alternative form by petitioners.
3. The districts can be detailed by the county commissioners.

The establishment of the districts must conform to generally accepted Constitutional standards. Finally, if the alternative form is approved, the county commissioners must, every 10 years, create new districts using the most recent decennial federal census.

## **2.27 NOTIFICATION REQUIREMENTS**

At least 45 days before the election on the alternative form, the board of county commissioners must have a copy of the alternative form delivered to each elector in the county.

## **2.28 EFFECTIVE DATE**

If the alternative form is approved by a majority of the electors, the aspects of the proposal relating to the nomination and election of officers become effective immediately. All other provisions of the alternative form take effect on the first Monday in January after the next regular state election.

## **2.29 POWERS OF ELECTED EXECUTIVE**

Under the elective executive plan, the elected executive is elected at the first regular county general election after adoption of the alternative form. The elected executive serves a four year term. Any vacancy is filled by the board of county commissioners for the remainder of the term. The salary of the county executive during the first term will be 160 percent of that of commissioners as established by ORC Section 325.10. After the first term, the salary will be set by the county commissioners one year before the term of office begins. Following is a list of the powers and duties of the elected executive:

1. To be responsible for the proper administration of the affairs of the county placed in his charge.
2. To serve as the head of any county department if directed to do so by the county commissioners, provided the executive has the qualifications required by law.
3. To perform all duties of an administrative nature vested in the board of county commissioners by state law or an agreement with any other governmental unit.
4. To administer the resolutions of the county commissioners and laws of the state relating to the office.
5. To supervise county departments established by the county commissioners.
6. To make certain appointments, made by county commissioners in a statutory county, with the advice and consent of the commissioners.
7. To appoint certain members to boards and commissions, with the advice and consent of the county commissioners.
8. To promote the coordination of all county functions and to make an annual report.
9. To recommend the tax budget and appropriation resolution to the county commissioners.
10. To keep the county commissioners advised of the financial condition and future needs of the county.
11. To attend meetings of the county commissioners and to take part in their discussions.
12. To submit measures felt to be necessary for consideration, and to submit reports on the operation of the county when the county commissioners request.



13. To appoint, suspend, and remove employees.

14. To veto any ordinance or resolution of the county commissioners. Veto can then be overridden by a two-thirds vote.

### **2.30 POWERS OF APPOINTED EXECUTIVE**

The appointed executive has all the powers of the elected executive with two exceptions:

1. An appointed executive does not have the power to appoint, suspend, or remove employees. The executive may recommend such actions, but they must be approved by county commissioners.
2. An appointed executive does not have the veto power.

### **2.31 POWERS OF BOARD OF COUNTY COMMISSIONERS**

The board of county commissioners is the policy making and legislative body of the county. The board organizes the first Monday of January each year by electing one of its members as president and one as vice president. The board establishes its own rules and order of business and must maintain a journal. A majority of the full membership of the board constitutes a quorum and is needed to take action on any proposal. Following are some of its major powers:

1. To determine the officers and employees of the county that must file bonds and the amount and form of the bond.
2. To provide for the borrowing of money.
3. To acquire, construct, maintain, and administer property, buildings and other public improvements.
4. To accept gifts, bequests, and grants.
5. To request reports from the county executive, elected officers, and administrative officers and to require their attendance at meetings.
6. To authorize the county executive to employ consultants.
7. To adopt procedures for contracting and purchasing by competitive bidding.
8. To adopt the tax budget and annual appropriation resolution and to exercise control over expenditures. This can involve the adoption of a monthly or quarterly allotment schedule.

9. To determine the compensation of appointive heads of departments and divisions under its control by adopting a classification plan and pay schedule. The board may also designate the maximum number of employees that may be employed in each county office.
10. To cooperate or contract with other political subdivisions to plan, develop, construct, acquire, or operate any public improvement or common services. The board will also determine the terms by which the county will perform the services or functions of any other unit of government in the county.

### **2.32 ESTABLISHMENT OF DEPARTMENTS**

The board of county commissioners also has the authority to establish a variety of departments as follows:

1. Finance.
2. Human Services.
3. Health.
4. Purchasing.
5. Public Works.
6. Law.
7. Personnel.
8. Detention and Correction.
9. Water & Sewer.

In addition, the commissioners have the authority to establish other departments that they determine to be necessary. The county executive has responsibility for all departments. The specific duties of the departments of finance, law, personnel, detention and corrections, and water and sewers are specified in ORC Chapter 302.

### **2.33 COMMENTS ON SELECTED DEPARTMENTS**

The power to establish departments is permissive. The following comments on certain departments should prove thought provoking:

1. Health Department - If this department is created, it would take over the functions and have the powers of general health districts.

2. Finance Department - The finance department would examine the legality and correctness of each expenditure. This comes close to the present function of the county auditor.
3. Detention and Correction Department - If this department is formed, it assumes all responsibility for county jails normally assigned to the sheriff by ORC Chapter 341.

### **2.34 LEGISLATIVE POWERS GRANTED UNDER THE ALTERNATIVE FORM**

Possibly the greatest power granted to the board of county commissioners under the alternative form is that of home rule or limited legislative powers. Simply stated, the board has the authority to act on any matter unless state law or the Ohio Constitution specifically prohibits the action. The board, however, can only levy taxes authorized by law. Finally, if there is a conflict of powers of the county with those of a municipality or a township, the powers of the municipality or township prevail.

### **2.35 REPEAL OR CHANGE OF ALTERNATIVE FORM**

The same procedures may be used to discontinue the alternative form as are followed to adopt one. Amendments are not provided for, however, instead an entirely new alternative form may be submitted to the electors.

### **ACKNOWLEDGEMENT**

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