

COUNTY ORGANIZATION IN MICHIGAN

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Executive Summary

County government has its origins in medieval England. Modern efforts to reorganize the seemingly aberrant form of county government have attempted to redefine county functions in accordance with the responsibilities assigned to the legislative, executive, and judicial branches by the United States Constitution.

The 1963 Michigan Constitution requires the election of a sheriff, county clerk, county treasurer, register of deeds, and prosecuting attorney in each county. The current state Constitution continued the boards of supervisors comprised of officials from organized townships, but federal judicial decisions have resulted in the establishment of directly elected county boards of commissioners.

Eighty of Michigan's 83 counties retain the general law form. In these counties, the county board of commissioners performs both executive and legislative roles, although state statutes provide several options for centralizing administrative responsibilities.

Bay and Oakland Counties have reorganized under the optional unified form, and both have opted for an elected executive rather than an appointed county manager. The statute that defines the optional unified form specifies the authority of the elected executive, who may veto the actions of the county board, and the appointed county manager, who does not possess veto power. The statute also redefines the board of commissioners as a more purely legislative body, and provides a departmental structure for the county, subject to modification by the board.

The 1963 Michigan Constitution permits the adoption of county charters. P A 293 of 1966 as amended is the legislation required by the Constitution to enable voters of a county to elect a charter commission and adopt or reject the charter developed by the charter commission in accordance with the statute. In counties of less than 1,500,000 population, the proposed charter must provide for an elected county executive. In counties of at least 1,500,000 population, the charter commission must propose alternate charter proposals which differ only in the selection of a chief administrative officer by the county board or a county executive elected at large on a partisan basis. That official has the authority specified in the act, and any additional duties and responsibilities granted in the charter, but only the elected county executive may veto actions of the county board. A county does not become a home rule county until a charter has been adopted and new charter officers have been adopted: in Michigan, Wayne is the only home rule county.

Regardless of whether a county is general law, optional unified, or charter, the state attorney general has ruled that the elected county offices described in the state Constitution may not be abolished. Establishment of a county executive cannot therefore negate all the effects of a multi-headed executive, but adoption of the optional unified or charter form does better differentiate the legislative and executive functions of county government.

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COUNTY ORGANIZATION IN MICHIGAN

Introduction. In Michigan, residents of counties determine which of three legal bases will control the structure of their county government. However, regardless of whether a Michigan county is organized under general law, has an optional unified form, or has a charter form, the organizational structure of counties differs from the structure of other levels of government in important ways. This report will trace the historical development of county government to explain those differences, and will describe the constitutional and statutory authority for the available forms of county organization in Michigan.

Modern counties perform a dual role. They are agents of the state in such matters as the conduct of elections, enforcement of state criminal laws, registration of property deeds, issuance of birth certificates, and administration of justice, and they also provide services directly for the benefit of county residents: parks and recreation programs; water and sewerage services; solid waste disposal; airports; and economic development efforts. While the range of services provided by county government is influenced by population density and the number and size of local government units contained within the county, the ability of county governments to perform these activities effectively and efficiently is to some extent a function of organizational structure.

History

For citizens who were taught the strengths of the traditional American form of government embodied in the United States Constitution, the structure of Michigan general law county government is mystifying. Counties are administrative arms of the state, but separation of powers, checks and balances, and accountability are either absent or distorted in general law counties: the county board performs both executive and legislative functions, while the "executive" branch is splintered among several directly elected officials. How and when did this seemingly aberrant structure develop, and how did it find its way into the American system?

An Archaic Form The structure which persists in general law counties has its roots in the shires of Anglo-Saxon England. Scirs or shires were administrative units originally established in the 6th century by King Ine of Wessex to extend his authority to the more distant areas under his control. The king appointed heretogas as overseers of these shires, which were the governmental basis of judicial, police, public works, and military organization. The office of shire-reeve, which became the present day sheriff, developed to assist the heretogas. After the Norman Conquest in 1066, the shire became known as a conte or county, and the shire-reeve became the primary local administrator. Shire-reeves eventually gained very significant political, financial and judicial power; that power was restrained by the rule of law contained in the Magna Carta of 1215.

The shire, as well as the parish, a unit of church and civil government, and the borough, which provided police and judicial functions, were the administrative units with which the English colonists were familiar.

Colonists in tidewater Virginia originally formed governmental units resembling parishes, but the pattern of widely scattered settlement demanded the creation of larger administrative units. In

1634, the settled area of agricultural Virginia was organized into eight shires or counties, which were the bases for election, military, judicial, and public works functions. County officers such as the sheriff were appointed by the colonial governor from a list prepared by the county court, which consisted of landowners commissioned by the colonial governor.

Other geographic, economic, and social conditions demanded other organizational structures. In Massachusetts, colonists engaged in fishing, shipping, and agriculture had to contend with the threat of hostile Indians. They settled in compact communities, a condition more conducive to investing the town with governing responsibility. Four counties were established in Massachusetts in 1643, but town government remained the stronger force.

Different forms of government developed in other colonies. In Pennsylvania, the three members of the county governing body were elected at large. In New York, the supervisor elected from each town to levy and assess local taxes became a member of the county board of supervisors; this composition of the county board was adopted in Michigan.

County Structure in Michigan. The organization of local government is one of the powers reserved to states in the federal Constitution, and most early state constitutions continued the colonial forms of local government.

The Northwest Ordinance adopted in 1787 established the temporary government of the territory northwest of the Ohio River. The ordinance gave the governor the authority “to lay out the parts of the district in which the Indian titles shall have been extinguished into counties and townships.” Wayne County, the first Michigan county, was designated in 1796; it originally included most of Michigan, as well as parts of Indiana, Ohio, Illinois, and Wisconsin. As population grew, additional counties were established as administrative arms of the state. In 1827, the legislative council established county boards of supervisors comprised of representatives from each organized township.

While the concept and outline of county government have ancient English roots, the plural executive structure has its basis in Jacksonian democracy. “Progressive” early to mid-19th century political theory held that the problem with county government was the appointive status of county officials. The cure proposed was to have as many county officials as possible elected directly to short (two-year) terms. This approach, which would theoretically keep democracy close to the people, reflected the frontiersman’s belief in personal versatility and his suspicion of specialization. Government was not believed to require specialized skills or training. It was hoped that the fragmentation of power and frequent turnover of officials would prevent the formation of a government aristocracy. During this period in the 19th century, many previously appointive positions became elective, and many new elective positions were created. County government became the basis for political policy making and the spoils system.

The first Michigan Constitution, adopted in 1815, contained several provisions relating to counties. Article VII stated in part: “There shall be a sheriff, a county treasurer, and one or more coroners, a register of deeds and a county surveyor, chosen by the electors in each of the several counties once in every two years, and as often as vacancies shall happen. The sheriff shall hold no other office, and shall not be capable of holding the office of sheriff longer than four in any term of six years...” County clerks were to be elected to two-year terms, and judges of all county

courts, associate judges of county courts, and judges of probate were to be elected to four-year terms. County prosecuting attorneys were appointed to two-year terms by the governor with the advise and consent of the senate.

As early as 1838, the composition of county boards was changed; county boards of supervisors were replaced with a commissioner system in which commissioners were elected at large. In 1842, boards of supervisors representing townships were reintroduced; township supervisors remained members of county boards until 1967.

In 1845, U. S. Supreme Court Justice Taney defined county government as an extension of the state: "The several counties are nothing more than certain portions of the territory into which the state is divided for the more convenient exercise of the powers of governments

The 1850 Michigan Constitution, which specified that counties are bodies corporate, required that the board of supervisors be comprised of one member from each organized township and such representation from cities as the legislature directed. That constitution also required the election in each organized county of a sheriff, county clerk, county treasurer, register of deeds, and a prosecuting attorney, but the board of supervisors could combine the offices of county clerk and register of deeds. Limitations on the borrowing and taxation authority of county officials were included in the constitution in response to alleged abuses of power. An amendment to the 1850 Constitution authorized the legislature to establish county road commissions.

By the late 1800s, county government appeared to reformers to be inefficient, irresponsible, and corrupt. The existence of numerous elective offices in the plural executive form and patronage abuse were considered primary weaknesses. At this time, county formation was just ending in Michigan: in 1891, Dickinson was the last of the 83 Michigan counties to be organized.

The early years of the 20th century were a time of reform, when people believed that governments should be managed like businesses are managed. In 1917, recommendations at the national level for reform of county government included consolidation of city and county government; reduction of the number of elected county officials and designation of one official to be responsible for the administration of county government; and implementation of merit systems, budgeting and accounting systems, and bid and purchasing systems.

The 1908 Michigan Constitution, which assigned public health and welfare responsibilities to counties, provided home rule for cities and villages. The concept of home rule for counties was developing: California permitted county home rule in 1911 and Maryland permitted county home rule in 1915. A proposed amendment to the 1908 Michigan Constitution to allow county home rule was introduced in the Michigan Senate in 1929; it was not successful. A 1932 amendment established the 15-mill property tax limit for counties and their constituent townships and school districts, unless a higher rate was approved by the voters. County home rule amendments were defeated by Michigan voters in 1934 and 1936. One-man grand jury revelations in 1942 and 1943 resulted in county home rule amendments being proposed solely for Wayne County in 1942 and 1944. These were also defeated.

The 1963 Michigan Constitution. The 1963 Michigan Constitution deals at length with county government, and does permit the adoption of county charters. Various sections of Article VII are pertinent to counties.

Sec. 1. Each organized county shall be a body corporate with powers and immunities provided by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members serving may, and upon petition of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question,

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless approved in the manner prescribed by law by a majority of electors voting thereon in each county to be affected.

Sec. 4. There shall be elected for four-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose powers and duties shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation of the preceding year.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of way of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 31. The legislature shall not vacate or alter any road, street, alley or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

Sec. 33. Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.

Sec. 34. The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.

County Government Reorganization Modern efforts to reorganize county government seek to bring the ancient form with its more recent Jacksonian appendages into greater conformity with the structure of government established in the U. S. Constitution. The traditional plural executive form is being abandoned by the largest counties nationwide, as they seek more efficient ways to provide services normally provided by municipal governments.

The most recent information available from the National Association of Counties indicates that county reorganization of one form or another has occurred in 40 states. There are 118 charter counties in 21 states, including 19 in New York, 14 in Louisiana, 12 in California, and 11 in Florida. There are 382 elected county executives in 24 states (120 of these are in Kentucky, 95 in Tennessee, 75 in Arkansas), while 746 county administrators manage in 34 states (97 in North Carolina, 93 in Virginia, 61 in Georgia, 50 in California, 48 in Colorado, 41 in Florida). In addition, there have been 27 city-county consolidations in 16 states, five of them in Virginia.

County Organizational Options in Michigan. The definition of counties in Michigan Constitutions traces the evolving form and role of counties. Although it would seem that the present state constitution has authorized county organization which differs from the Jacksonian-inspired form, the state Attorney General has ruled that the elected county offices described in the Constitution may not be abolished.

In Michigan, constitutional and statutory provisions allow four structures which counties may assume: all retain the plural executive form. Eighty Michigan counties are general law counties, which have adopted neither a charter nor the optional unified form, and so retain the plural executive commission form. Bay and Oakland Counties are organized under the optional unified form of county government, which allows either an appointed county manager or an elected county executive (both Bay and Oakland have adopted the elected executive form). On November 3, 1981, Wayne County voters adopted the only county charter now in effect in Michigan, giving Wayne County an elected executive form of government.

For the purposes of this description of county organizational structure, the court system will be excluded. Local courts do receive funding from counties, but are not pertinent to the structural issues being addressed.

General Law Counties

Chapter 13 of the Revised Statutes of 1846 provides that counties are bodies corporate. They may sue and be sued, may purchase and hold real and personal property and may sell real estate not donated for a special purpose, may borrow money to build and repair county buildings and bridges, may enter contracts, and may “do all other necessary acts in relation to the property and concerns of the county.”

County Commission. The appropriate composition and role of the county commission has been the subject of extensive debate and has been addressed by the state Legislature on numerous occasions.

Article VII, Section 7 of the 1963 Constitution, which is quoted above, defines county boards of supervisors as being comprised of one supervisor from each organized township. That section is

violative of federal constitutional provisions as interpreted by the United States Supreme Court in *Reynolds v Sims* and other cases. Although the state constitutional provision has never been amended, P A 261 of 1966 as amended provides for the election of county commissioners from single member districts.

The first state Supreme Court advisory opinion on the constitutionality of P A 261 of 1966 (379 Mich 55) held that the statute violated Article VII, Section 7 of the state constitution, but that advisory opinion was superseded by another (380 Mich 736) which held P A 261 of 1966 to be in compliance with the state constitution since in the court’s opinion, federal constitutional provisions invalidated the state constitutional requirement that county boards be comprised of one supervisor from each organized township.

The U. S. Supreme Court’s one person-one vote decisions have resulted in county boards of commissioners that are more representative of people rather than units of government, smaller, and more partisan. County commission election districts required by P A 261 of 1966 as amended are to be as nearly equal in population as is practicable based on the latest official published U. S. census, contiguous, compact, of as nearly square shape as is possible, are to respect township, village, and city boundaries, and are not to be drawn to effect partisan political advantage.

The number of general law county commissioners is based on the population of the county:

County Population	Number of Commissioners
Under 5,001	Not more than 7
5,001 to 10,000	Not more than 10
100,001 to 50,000	Not more than 15
50,001 to 600,000	Not more than 21
over 600,000	25 to 35

The county board in general law counties has both legislative and administrative powers and duties. Traditional legislative functions include establishing policy through the passage of ordinances and resolutions, legislative oversight, and constituent services. Administrative functions performed by general law county boards include developing and monitoring the county budget, purchasing, personnel, building maintenance, reviewing audit reports with auditors, appointing and removing operating department heads, reviewing operational problems with department heads, and investigating the applicability of new technology.

County boards may pass regulations and ordinances relating to county affairs, so long as those regulations and ordinances are consistent with state law and do not interfere with the local affairs of a township, city, or village within the county. Regulations and ordinances do not take effect until notice of their adoption has been published in a newspaper of general circulation in the county and until approved by the governor. The clerk is responsible for certifying and transmitting to the governor all regulations, ordinances, and acts of the county board, with some exceptions. If the governor approves and signs the regulation, ordinance, or act, it becomes effective 60 days after its adoption by the board. If the governor does not approve and refuses to sign, the resolution, ordinance, or act is returned to the clerk of the county within 10 days after receipt of the certified copy. The clerk must submit the resolution, ordinance, or act, along with the reasons

for the governor's rejection, to the county board for reconsideration at its next session. If 2/3 of the members elected to the county board approve the resolution, ordinance, or act, it becomes law effective 60 days after its adoption. A county act approved by the governor or passed over the objection of the governor is deposited with the secretary of state. Residents of the district affected by a resolution, ordinance, or act may file a petition signed by not less than 20% of the electors in that district within 50 days after adoption, asking that the resolution, ordinance, or act be submitted to the electors of the district. In that event, the resolution, ordinance, or act may not take effect until the electors of the affected district have approved it.

County boards of commissioners in general law counties have several options for centralizing their administrative responsibilities and coordinating staff functions. They may choose to appoint a purchasing agent, board secretary, administrative assistant, county administrator, county controller, finance committee, or county auditor or board of auditors.

Under P A 58 of 1921 as amended, a county board may appoint a purchasing agent and other representatives, agents, or employees as may be necessary for the county. Board secretaries, administrative assistants, and county administrators have the authority and responsibilities granted to them within the law by the county board of commissioners which created their positions. These responsibilities may include budget, personnel, purchasing, and building maintenance and operations.

P A 257 of 1927 as amended specifically describes the role of the optional county controller. The county board of commissioners may elect to appoint a county controller to serve as chief accounting officer of the county, to install adequate accounting systems in all departments, and to supervise the accounts. A county controller maintains the general ledger of the county, examines the books and accounts of the county, and reports to the board. This type of county controller is the purchasing agent of the county and has charge of the maintenance of county buildings.

A statutory finance committee is an anachronism, designed to meet the needs of large boards of supervisors. But a county board of commissioners may establish a finance committee or ways and means committee as a semi-executive committee with specified administrative responsibilities.

P A 275 of 1913 as amended allows county boards to submit the question of creating a board of county auditors or county auditor to the electors. Members of the board of auditors are elected by the board of supervisors. A county board of auditors is responsible for auditing all claims against the county and drawing warrants therefor; purchasing supplies for the county; examining the books and accounts of all county officers; recommending the number of positions and their salary levels for the various county departments; establishing a system of records and accounts for all county offices; summoning witnesses, administering oaths, and taking testimony on the legality of any bill or issue pending before the board; preparing monthly statements of claims; preparing annual budget estimates; maintaining county buildings; and contracting for all county printing. Use of this alternative for providing administrative coordination has also been declining.

By a 2/3 vote, a county board of commissioners in a county that has not adopted a charter may establish a department of public works under the immediate control of a board of public works comprised of the county drain commissioner and six or eight other members appointed by the county board of commissioners. Also by a 2/3 vote, a county board of commissioners may create

a county parks and recreation commission consisting of ten members, three of whom are designated county officers, and from one to three of whom are members of the county board of commissioners.

State law also provides for the powers and duties of general law county treasurers, prosecuting attorneys, county clerks, sheriffs, county medical examiners (previously coroners), registers of deeds, surveyors, and other officials and employees.

County Treasurer Chapter 14 of the Revised Statutes of 1846 describes the role of the county treasurer: “It shall be the duty of the county treasurer to receive all moneys belonging to the county, from whatever source they may be derived; and all moneys received by him for the use of the county, shall be paid by him only on the order of the board of supervisors, signed by their clerk, and countersigned by their chairman, except when special provision for the payment thereof is, or shall be otherwise made by law.” The county treasurer must maintain the county’s financial books and accounts, and must present them to the board of supervisors annually or at their request. County boards of supervisors or, in those counties which have boards of county auditors, the boards of county auditors are authorized to invest money received by the county treasurer in United State government securities, and must designate the banks in which the treasurer may deposit county funds. County treasurers must review county checks and certify the availability of funds for payment.

Except where this function is performed by a board of county auditors, the county treasurer at the direction of the county board must obtain insurance on county buildings and manage those policies. The county treasurer is involved in property tax administration and must furnish transcripts and abstracts of records, including abstracts of taxes. County treasurers are required to manage cemetery trust funds.

County Clerk The county clerk is the non-voting clerk or secretary to the county board, and must record the proceedings of the board, make regular entries of all their resolutions and decisions; record the vote of each member if required; preserve, file, and retain all accounts acted on by the board; certify copies of resolutions or decisions of the board; and perform such other duties as the board may require. The clerk is responsible for preparing the board agenda and minutes and certifying board approval of claims for payment.

Historically, the county clerk was responsible for maintaining accounting records and preparing checks, but a county board of commissioners may appoint a county controller to maintain the accounting records of the county and to oversee all the books and accounts of the county.

County clerks must report to the secretary of state the names and addresses of all township and city clerks and supervisors in the county.

The county clerk is directed by state law to appoint one or more deputies who must be approved by the circuit judge. Because the county clerk is clerk of the circuit court, the county clerk’s office must maintain all case files, bonds, and documents filed with the court and record all orders, decrees, judgments, and proceedings of the county courts, as well as account for all court revenues.

Register of Deeds. State law requires that the register of deeds maintain books containing a record of all deeds to property in the county. Counties are authorized to establish and maintain a system of abstracts of title to all land in the county, and to make and sell abstracts of title to property in the county.

Prosecuting Attorney. Prosecuting attorneys, who are elected on a partisan basis, must be licensed attorneys. Chapter 14 of the Revised Statutes of 1846 provides: "The prosecuting attorneys shall, in their respective counties, appear for the state or county, and prosecute or defend in all the courts of the county, all prosecutions, suits, applications and motions, whether civil or criminal, in which the state or county may be a party or interested." Prosecuting attorneys also provide legal counsel to the various county departments and to the board of commissioners, but a county board of commissioners may vote to employ an attorney to represent the county in civil matters, if it determines that the prosecuting attorney is unable to properly represent the county.

As the chief law enforcement officer in the county, the prosecuting attorney reviews criminal complaints for which police officers request arrest warrants, and decides which charges will be brought.

Sheriff. The sheriff's duties include executing the orders, judgments, and processes of courts; preserving the peace; arresting and detaining persons charged with the commission of public offenses; and serving court papers.

Although the county board of commissioners is responsible for providing and maintaining suitable jail facilities, the county sheriff has charge and custody of the jails of the county and of the prisoners in those jails. The sheriff as jail administrator is authorized to adopt rules and regulations for the conduct of prisoners, which rules must be approved by the circuit judge, and is required to maintain records of prisoners in custody.

The sheriff's department is responsible for patrolling county roads outside of cities and villages, and may patrol inside a city or village if requested to do so by the legislative body of the city or village; enforcing criminal laws; investigating motor vehicle accidents; and providing emergency assistance to persons on or near patrolled county roads.

A sheriff may appoint an undersheriff, a chief deputy sheriff, and deputy sheriffs depending on the size of the county and the resources made available.

County Medical Examiner. Act 181 of 1953 required county boards of supervisors to abolish the office of county coroner and provided for the appointment of a county medical examiner. This appointee must be a licensed physician. In non civil service counties, the county board may appoint a deputy medical examiner who, in counties of over 50,000 population, must also be a licensed physician; in civil service counties, the medical examiner appoints the deputy medical examiner. The medical examiner may appoint medical examiner investigators who may or may not be physicians to perform assigned duties. The county medical examiner is responsible for investigating the cause of death of persons who die violently, suddenly, unexpectedly, accidentally or without medical attendance in the 48 hours prior to death unless the attending physician is able to determine accurately the cause of death.

County Surveyor. The county surveyor makes and records surveys of land in the county according to survey principles contained in the law, as directed by a court or requested by a person, to determine boundary lines. The county board of commissioners may abolish the position of elected county surveyor, and may reestablish the position. In counties of over 500,000 population, the question of abolishing the office of county surveyor must be submitted to the voters; in those counties there is no provision for reestablishing the position.

Optional Unified Form of County Government

Counties that have not adopted a charter and do not have active (undissolved) charter commissions may adopt an optional unified form of county government under P A 139 of 1973. Alternate A of the optional unified form includes an appointed county manager. Alternate B includes an elected county executive. This form of county organization provides more local control than is available to general law counties, but allows less latitude than may be exercised by charter counties.

Adoption of the Optional Unified Form. Either alternate A or B of the optional unified form may be adopted by a majority vote of the county board of commissioners, and then submitted to the voters of the county. The election is to be held at the next regular primary election between 49 and 180 days after the board action, or after certification of a petition. If a regular primary is not scheduled during that period, the county board must call a special election. If the proposal is approved, the optional unified form becomes effective on the January 1 following certification of the election. If the voters disapprove the alternate placed before them, the county board may not readopt that alternate again within two years, but the board may adopt the other alternate.

If the county board adopts either alternate A or B, county residents have 90 days to file with the county clerk a petition requesting adoption of the other alternate. That petition must bear the signatures of registered voters of the county in an amount not less than 5% of the total number of votes cast for governor in the last election for governor. If a valid petition is filed, or if the county board of commissioners decides by majority vote to offer both alternates to the voters, the questions put before the voters are whether to adopt an optional unified form of county government, and then whether to adopt alternate A or alternate B. If voters approve the first question, the alternate receiving the greatest number of votes becomes effective on January 1 following the certification of the election.

The issue of adopting an optional unified form of county government need not be initiated by the county board of commissioners. At least 10% of the number of registered voters of the county who voted for governor in the last election are required to sign a petition requesting adoption of either alternate A or B. That petition must be filed with the county clerk and certified. Two separate petitions or sets of petitions may be filed if each requests the adoption of a different alternate. The question or questions must be submitted to the electorate at the next regular primary election occurring between 90 and 180 days after the date that the county clerk certified the petitions to the county board. If there is no scheduled primary during that period, a special election must be called. If one alternate is offered and receives approval, it becomes effective on the next January 1. If both alternatives are on the ballot, and if the question of adopting an optional unified form of government is approved, the alternate receiving the most affirmative votes becomes effective on

the next January 1. Obviously, if both alternates are offered and the question of adoption of an optional unified form is not approved, neither becomes effective.

County Structure. On the date the optional unified form becomes effective, all appointed boards, commissions, authorities, and elective offices except those specified in the statute* are abolished and the tenure of those holding the office or appointment is terminated. Termination is effective regardless of whether it coincides with the end of a term of office or appointment.

The county officers who are protected and whose powers are not minimized or divested by the act are:

Prosecuting Attorney
Clerk
Register of Deeds
Treasurer
Sheriff
Drain Commissioner
Board of County Road Commissioners

All other elected offices of the county except those listed above and the board of county commissioners are abolished on the date the optional unified form of county government becomes effective.

In addition to abolishing nonprotected appointive and elective offices, P A 139 of 1973 abolishes county departments that are in conflict with the department organization established in the act. The powers previously vested in these abolished offices, boards, authorities, and departments are to be administered by the county executive or county manager as determined by the county board of commissioners. The powers vested in the county prosecuting attorney, sheriff, register of deeds, clerk, treasurer, drain commissioner and board of county road commissioners are protected. Some changes are made in the method of appointing to and the power vested in a county department of veterans' affairs or soldiers' relief commission.

Board Authority. Under the optional unified form of county government the county board of commissioners is the governing body of the county. P A 139 of 1973 specifies that the county board may:

- (a) Establish policies to be followed by the government of the county in the conduct of its affairs and exercise all powers and duties vested in boards of county commissioners not inconsistent with this act.
- (b) Adopt ordinances and rules necessary for the conduct of county business and exercise all other powers in the area of legislation authorized by this act or by law.
- (c) Establish committees of the board necessary for the efficient conduct of business.
- (d) Adopt the annual county budget and work program, and adopt, revise, and update-a long range capital improvement program and capital budget.

- (e) Make appropriations, levy taxes, and incur indebtedness in the manner authorized by law for the carrying out of functions, powers, and duties granted or imposed upon the county or upon an office or department of the county as provided by law.
- (f) Establish salaries of elected officials and heads of boards commissions, and departments unless otherwise fixed by law. Adopt a classification and pay plan for positions in the county service, which shall provide uniform compensation for like service.
- (g) Adopt, following a public hearing, personnel rules governing county employment and operation of a merit system if adopted as provided by law.
- (h) Appoint members of a board, commission, or authority.
- (i) Appoint, when alternative A of this act is applicable, a county manager to serve as chief administrative officer of the county.
- (j) Inquire into and investigate the official conduct and audit the accounts of a county office. For the purpose of an investigation under this act, the board may authorize the chairperson to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records or other documents which the board deems relevant or material to the inquiry. Before any subpoena is issued, the board shall obtain an order of the circuit court by a showing that there is good cause.
- (k) Appoint a staff to assist the board in post-audit and investigative functions.
- (l) Appoint necessary personnel to assist the board.
- (m) Adopt and revise a comprehensive plan for county development as provided by law.
- (n) Adopt and enforce rules establishing and defining the authority, duties, and responsibilities of county departments and offices.
- (o) Consolidate county departments or transfer functions from 1 department to another pursuant to section 14.
- (p) Enter into agreements with other governmental or quasi-governmental entities for the performance of services jointly.
- (q) Accept gifts and grants-in-aid from a government or private source.

Executive Authority. Within 60 days after alternate A becomes effective, the county board must appoint only on the basis of merit a county manager to be administrative head of the county government and to be responsible for the overall supervision of all county departments not headed by elected officers. In counties of at least one million population, the county manager must be a county resident at the time of his or her appointment, but in counties of less than one million population, the county manager need not be a county resident at the time of appointment, but must establish and maintain residency after appointment. The county board determines the compensation to be paid to the manager, who serves at the pleasure of the board. A member of the

county board of commissioners may not be appointed county manager during service on the board or for one year thereafter.

The act specifies the powers and duties of the county manager or county executive:

- (a) Supervise, direct, and control the functions of the departments of the county except those headed by elected officials.
- (b) Coordinate the various activities of the county and unify the management of its affairs.
- (c) Enforce all orders, rules, and ordinances of the board and laws of this state required to be enforced by his or her office.
- (d) Not less than 90 days before the next succeeding fiscal year, prepare and submit to the board a recommended annual county budget and work program, and administer the expenditure of funds in accordance with appropriations. An elected officer or county road commissioner may appear before the board as to his or her own budget. Not less than once each year the appointed manager or county executive shall submit to the board a proposed long-range capital improvement program and capital budget.
- (e) Appoint, supervise, and, at pleasure, remove heads of departments other than elected officials. The appointment of heads of departments shall require the concurrence of a majority of the county board of commissioners.
- (f) Submit recommendations to the board for the efficient conduct of county business.
- (g) Report to the board on the affairs of the county and its needs, and advise the board not less than every 3 months on the financial condition of the county.
- (h) Perform other duties and activities as the board directs.
- (i) Audit all claims which are chargeable against the county. A warrant shall not be drawn for a claim, nor shall the claim be paid, until the claim has been audited by the county executive, the county manager, or a designated representative of the county executive or county manager.
- (j) The county executive or county manager may attend meetings of the board of commissioners, and may participate in accordance with the rules of the board, which shall allow for his or her participation.

The elected county executive is responsible for overall supervision of all county departments not headed by other elected officials. A county executive is elected on a partisan basis to a four-year term concurrent with other county officers. The first county executive may be nominated at the same election at which alternate B is approved, or at the next primary or general election. Election occurs at the next regular primary or general election 30 to 90 days after nomination, or, if no regular primary or general election is scheduled, at a special election. The term of the first executive elected in a county extends only to the January following election of other county officers. The county board of commissioners must establish the salary to be paid to the county executive

for the initial term, and must appoint a county executive to serve until the next general election if the office of county executive becomes vacant through death or resignation.

Other than elective status, the major difference in the positions of county manager and county executive is the ability of the elected county executive to veto ordinances and resolutions adopted by the county board. A veto must be certified to the board within ten days after the date of adoption of the ordinance or resolution, and may be overridden by a 2/3 vote of all board members elected and serving. The county executive may not veto resolutions pertaining to the organizational structure of the board, appointments by the board, the board's policy positions on pending legislation, or the abolishment of the optional unified form of county government. Under alternate B, a resolution or ordinance becomes effective upon approval by the county executive, or upon failure of the executive to act by the end of ten days after receipt, or upon overriding of a veto.

County-Departments Established by the Act. P A 139 of 1973 provides a departmental structure subject to the authority of the county manager or county executive for those counties adopting the optional unified form. Each department is to be headed by a director who may appoint one deputy, and the county board may require that the county manager or county executive serve as a department director. The county board may consolidate departments, transfer functions from one department to another, and create additional departments.

- (a) The department of administrative services shall perform general administrative and service functions for the county government carry on public relations and information activities and deal with citizen complaints; plan for, assign, manage, and maintain all county building space; and manage a central motor pool.
- (b) The department of finance shall supervise the execution of the annual county budget and maintain expenditure control; perform all central accounting functions; collect moneys owing the county not particularly within the jurisdiction of the county treasurer; purchase supplies and equipment required by county departments; and perform all investment, borrowing, and debt management functions except as done by the county treasurer.
- (c) The department of planning and development shall prepare comprehensive plans for the overall development of the county; coordinate the preparation of county capital improvement programs; supervise economic development functions; and represent the county in joint planning activities with other jurisdictions.
- (d) The department of medical examiners shall coordinate and supervise medical investigative activities.
- (e) The department of corporation counsel if adopted shall perform as provided by law all civil law functions and provide property acquisition services for the county as provided by law.
- (f) The department of parks and recreation shall develop, maintain, and operate all county park and recreation facilities and supervise all recreation programs except where the same is under a board of county road commissioners, or a parks and recreation commission.

(g) The department of personnel and employee relations shall perform all personnel and labor relations functions for the county.

(h) The department of health and environmental protection shall perform all public health services for the county and carry on environmental upgrading programs.

(i) The department of libraries shall operate a general library program for the county if no library board or commission exists and may operate libraries for other governmental and semi-governmental entities.

(j) The department of public works shall construct, maintain, and operate all county storm and sanitary sewer, sewage disposal, general drainage, and flood control facilities except as the same are performed by the county drain commissioner; may perform general engineering, construction, and maintenance functions for all county departments and, upon approval of the board, for other governmental and semi-governmental entities; may operate the county airport except where the airport is operated by a board of county road commissioners; may construct, maintain, and operate county solid waste systems including resource recovery and distribution; and may construct, maintain, and operate water processing and distribution systems.

(k) The department of institutional and human services shall supervise county human service programs including hospitals and child care institutions. An existing civil service commission is limited to hearing and deciding appeals from disciplinary action, suspension, or removal of classified county employees.

Any existing pension or retirement system board is protected, and a new retirement system may be established by the county board of commissioners if none existed when the optional unified form of government was adopted.

Continuity. When an optional unified form of government becomes effective, title to all property held by any abolished county office, board, commission, department, or authority vests in the county. All ordinances not inconsistent with the optional unified form of government remain in force and effect. Existing employee rights including pension and retirement rights remain in effect, except as specifically modified by P A 139.

Abolition of the Optional Unified Form. There are three ways in which an optional unified form of county government may be abolished. After four years of operations under the optional unified form, a 2/3 vote of the county board to abolish that form and return to the general law form, followed by approval of that action by the electorate at the next regular primary or general election, will abolish optional unified government in that county 180 days after the election. Also after four years, a petition signed by at least 10% of the total number of county electors who voted in the last election for governor requesting abolishment of optional unified government may be filed with the county clerk or clerk-register. If the clerk or clerk-register certifies the petition to the board of commissioners, the board must submit the question to the electorate at the next scheduled primary or general election. If a majority of voters approve the abolition, that county reverts to general law status 180 days after the election. Of course, the optional unified form is abolished when county voters approve a home rule charter.

Charter Counties

The Charter County Act, P A 293 of 1966, as amended by P A 7 of 1980, is the legislation required by the 1963 Constitution that enables the voters of a county to elect a charter commission and adopt or reject the charter developed by the commission within parameters set forth in the act. The original 1966 act allowed county home rule that varied little from general law county organization. It was not until after the 1980 amendment, which gave counties more latitude to determine the content of county charters, that the voters of any county adopted a charter. Indeed, reorganization of Wayne County, accomplished in 1983, was strongly encouraged by the state as a measure to improve the administration and accountability of Wayne County government.

Charter Adoption Process The Charter County Act provides that the county commission by majority vote may, or upon petition of 5% of the registered voters of the county shall, adopt a resolution to place the question of electing a charter commission before the voters. That resolution must provide for a partisan election of a charter commission, nomination of candidates by petition or filing fee, and for a primary election.

The county clerk must prepare the necessary ballots at county expense. The question to be placed before the voters is:

Shall the county of..... elect a charter commission for the purpose of framing and submitting to the electorate of the county a county home rule charter under the constitution and laws of Michigan?

Yes ()
No ()

The number of charter commissioners must be determined by the county apportionment committee within the following constraints:

County Population	Number of Charter Commissioners
Under 5,001	Not more than 7
5,001 to 10,000	Not more than 11
10,001 to 50,000	Not more than 15
50,001 to 600,000	Not more than 21
Over 600,000	25 to 35

A candidate for election to the charter commission must have been a qualified voter in the county for at least six months, and may not be an elected county official.

The resolution to place the question before the voters must provide for election of charter commissioners from districts established by the county apportionment commission, which consists of the county clerk, county treasurer, prosecuting attorney, and a representative of each of the two political parties receiving the greatest number of votes cast for the office of secretary of state in the last general election. Districts are to be single member districts as equal in population as possible, are to be contiguous, compact, and as nearly square in shape as possible, are to respect township, village, city, and precinct boundaries to the extent possible, and are to be drawn without regard to partisan political advantage. The apportionment plan adopted by the county appor-

tionment committee must be filed with the county clerk, who must forward the plan to the secretary of state for filing. Any registered voter of the county may, within 30 days of the filing of the plan, petition the court of appeals to review the plan; court of appeals rulings may be appealed to the state supreme court. If the apportionment commission fails to submit a plan from 30 to 60 days after census figures are available, any registered voter of the county may submit a plan for approval by the commission, and the commission may select a plan and submit it to the county clerk. Once an apportionment plan has been found to be legal, and any appeals have been exhausted, that plan remains the official plan until the next census figures are available.

In counties of less than 1,500,000 population, the primary election of charter commissioners may be held at the same time as the question of electing a charter commission is submitted to the voters; it must be held at the same time in larger counties. The election of charter commissioners is to be held at the next primary or general election occurring within 60 to 180 days after the primary. If neither a primary or general election is scheduled in that period, the county board of commissioners must provide in the resolution for the date of the election of charter commissioners. One charter commissioner is to be elected from each election district.

The county commission must provide, if necessary, an appropriation for the election of charter commissioners, and for expenses of the commission, which shall include compensation for each charter commissioner of not more than \$65 per day for a total of 90 meetings (compensation may not be paid for more than one meeting per day). The charter commission may appoint employees and assistants and set their compensation, and with the authorization of the county commission, may use the service of county departmental personnel. Members of the charter commission must file their oath of office with the county clerk prior to the first meeting, which must take place between 10 and 20 days after certification of the election. The county clerk is the acting presiding officer until a permanent presiding officer is selected from the members of the commission. Within 20 days after the first meeting, the commission must have seated its members, selected its officers, and established its rules of procedure.

Business of the commission is to be held at public meetings, and a journal of proceedings is to be maintained. During the period that the charter commission is active, the county board of commissioners is prohibited from "taking any action which is designed to restructure or reorganize the county government which have the effect of diminishing the mandate of the charter commission." The charter commission exists for a maximum of two years. A vacancy is to be filled by a qualified elector from the same district and the same party as the commissioner vacating the office. If the charter commission fails to fill the vacancy within seven days, the chairman of the county board of commissioners is to appoint a replacement.

The questions of charter adoption and nomination or election of an elected county executive may not appear on the same ballot.

The charter commission has a maximum of 180 days after completing its organization to agree on a proposed charter. If it has not agreed to a proposed charter within that time, the charter commission is dissolved.

Charter County Executive. The primary benefit of charter adoption is the establishment of an accountable county executive with authority to coordinate the executive branch. In counties of

less than 1,500,000 population, the charter must provide for a salaried county executive, elected on a partisan basis. The powers and duties of the county executive, including veto powers and line and staff department control, may be defined in the charter, but must be consistent with the act.

In counties of at least 1,500,000 population, the charter commission must approve alternative charter proposals, which must be submitted to the voters at the same time. Those alternative charter proposals may differ only in the selection of a chief administrative officer or an elected county executive, the veto power of that official, and the removal of that official. One proposal must provide for a county executive elected at large on a partisan basis. The other proposal must provide for a chief administrative officer selected for a four-year term of office by the county board of commissioners, who may only be removed for cause by a 2/3 vote of the county board.

Both proposed charters must provide for the duties and responsibilities of the elected county executive or chief administrative officer. Those duties and responsibilities must include at least the following

- (a) Supervise, direct, and control the functions of all departments of the county except those headed by elected officials.
- (b) Coordinate the various activities of the county and unify the management of its affairs.
- (c) Enforce all orders, rules, and ordinances of the county board of commissioners and laws of the state required to be enforced by his or her office.
- (d) Prepare and submit to the county board of commissioners a recommended annual county budget and work program, and administer the expenditure of funds in accordance with appropriations. An elected officer, county road commissioner, or a body which has the powers of a county road commission may appear before the board as to the officer's, commissioner's or body's own budget. Not less than once each year the chief administrative officer or elected county executive shall submit to the county board of commissioners a proposed long-range capital improvement program and capital budget.
- (e) Except elected officials, appoint, supervise, and at pleasure remove heads of departments and all boards and commissions.
- (f) Submit recommendations to the board for the efficient conduct of county business.
- (g) Report to the county board of commissioners on the affairs of the county and its needs, and advise the board not less than once each 3 months on the financial condition of the county.

A member of the county board of commissioners may not serve as chief administrative officer of the county until at least two years after leaving the board.

Only the elected county executive may veto an ordinance or resolution of the county board of commissioners. The county board may override the veto by a 2/3 vote.

Mandatory Provisions Public Act 293 of 1966 as amended contains numerous mandatory provisions for county charters.

In a charter county, executive functions are removed from the county board of commissioners, but a county charter must provide for a legislative county board of commissioners with terms of office concurrent with state representatives, for the board's authority, duties, and responsibilities, and for the number of county commissioners within the following constraints.

County Population	Number of County Commissioners
Less than 600,000	5 to 21
600,000 or More	5 to 27

The charter must provide for the partisan election of county commissioners from single member districts and for reapportionment based on the last decennial census. The county board of commissioners may provide by ordinance for changes in their compensation, but the change will not be effective until the subsequent term of office.

The charter must provide for the partisan election of a sheriff, prosecuting attorney, county clerk, county treasurer, and register of deeds, and must allow the county board of commissioners to combine the offices of county clerk and register of deeds. In addition, the charter must provide for the continuation, transfer of functions, or discontinuation of all other existing county offices, boards, commissions, and departments. Charters in counties of less than 1,500,000 population must provide for the creation of a three-member road commission, one member of which must be a resident of a township. Charters in counties of at least 1,500,000 population must provide for the continuation of a county road system under a three-member commission appointed by the elected county executive or the chief administrative officer with the advice and consent of the county commission. The forgoing requirement for counties of at least 1,500,000 population does not apply if the charter is amended to provide an alternate method for carrying out the duties otherwise granted to a county board of road commissioners. (Wayne County eliminated its road commission by charter amendment, and transferred the duties to the Office of Public Service.)

A charter may not infringe or be in derogation of an existing pension system or civil service system. All general laws of the state applicable to counties remain in effect, except to the extent that the law permits the charter, and the charter does provide otherwise. All county ordinances remain in effect unless changed by the charter or by an ordinance adopted under the charter. The charter must provide the power and authority necessary to adopt, amend, or repeal any ordinance authorized by law, the power and authority necessary to enter into any legal intergovernmental contract, and the power and authority to participate in an intergovernmental authority to provide allowed public services.

The charter must also provide for a debt limit of not more than 10% of the state equalized value (SEV) of taxable property, for the levy and collection of taxes, and for an ad valorem property tax limitation of not more than 1% of the SEV of taxable property within the county. Unless approved by the voters, the levy of taxes may not exceed the number of mills allocated to the county by the tax allocation board or by a separate tax limitation in the immediately preceding year.

The charter must provide for initiative and referendum, and for recall of county officials. It must also provide for amendment or revision of the charter, initiated either by the legislative body or by voter initiative, and approved by the electorate.

The charter must provide that the acquisition operation, and sale of public utility facilities is subject to the same legal restrictions as apply to cities and villages.

Fiscal procedures must be addressed in the charter, which must provide for the annual preparation, review, approval, and adherence to a balanced budget to insure coordination among county offices, boards, and commissions; an annual audit of all county funds by a CPA; and, if a deficit is incurred, the preparation and submission to the governor and legislature of a detailed and specific five-year plan for short term financial recovery and long range financial stability.

Permissive Provisions The Charter County Act also contains permissive provisions. For example, the charter may provide for the office of corporation counsel, public defender, auditor general, and all other offices, boards, commissions, or departments necessary for the efficient operation of county government, and for the power to establish other offices, boards, commissions, or departments as necessary.

The charter may provide that units of government within the county may, with county approval, transfer functions or services to the county. The charter may provide the authority for the county to perform any function or service not prohibited by law. These powers may not be exercised by the county in a local unit of government which is exercising a similar power without the consent of the local unit. If a service is performed on a county-wide basis, the cost may be paid from the general fund of the county, but if it is not performed county-wide, the cost may be charged to the local unit or area benefited by the service. The charter may provide for the establishment and maintenance of county facilities, and for the power and authority to levy and collect any legal taxes, fees, rents, tolls, or excises. It may provide for a pension system, a civil service system, and for the election or appointment of a drain commissioner.

Charter Adoption The charter must be submitted to the Governor within 30 days after its completion, and may be approved by the Governor upon the written recommendation of the Attorney General that it complies with the law. The Governor has 30 days in which to approve or reject to charter. If the Governor rejects the charter, he must return it and his reasons for rejection to the charter commission, which must reconvene, revise the charter, and resubmit the revised charter within 45 days. The Governor then has 30 days to approve or disapprove the revised charter. If the Governor rejects the charter a second time, the charter commission must again reconvene and revise the charter or take steps to obtain a judicial interpretation of the legality of the charter. If the Governor approves, or the court finds the charter to conform to the constitution and applicable statutes, the charter commission has ten days to pass a resolution stating when the charter shall be submitted to the electorate. That submission must be at the next regularly scheduled primary election occurring at least 60 days after the passage of the charter commission resolution, but if there is no primary scheduled within 180 days, the charter commission resolution may provide for a special election. The resolution must also set the date for primary and general election of new charter county officers, whose first term ends at the same time as the incumbent Governor's. Future terms of office are four years, concurrent with the Governor.

The county clerk has a maximum of three business days to transmit the resolution and a copy of the proposed charter to the clerk of each city, village, and township in the county. The county clerk must publish the proposed charter in at least one newspaper of general circulation in the county between two and four weeks prior to the election.

A charter is adopted if it receives more yes votes than no votes, but in counties of over 1,500,000 population, if both charters are approved, the one with the most yes votes is adopted.

If the voters reject the charter, the charter commission must reconvene within 20 days. The charter commission has 60 days to amend or revise the proposed charter, which must then be submitted to the Governor for his approval. The revised charter must be resubmitted to the voters. A charter commission may not submit a proposed charter to the voters more than twice; when a charter commission has twice submitted a proposed charter to the voters and both proposals have been rejected, the charter commission is dissolved. In that event, another charter commission may be proposed by the county board at its discretion or upon petition of 5% of the registered voters. The petition must be filed with the clerk of the board within 60 days of the dissolution of the first charter commission. The board of supervisors must pass a resolution providing for the election of a second charter commission, which must be elected in the same manner as the first charter commission. However, no member of the first charter commission is eligible to serve on the second charter commission. If the charter proposed by the second charter commission is rejected, that charter commission is dissolved, and the process begins anew.

A county does not officially become a home rule county until the charter has been adopted and new charter officers have been elected. Incumbent officers elected prior to charter adoption whose offices have not been abolished or transferred are considered duly elected home rule county officers.

A home rule county succeeds to the property, rights, credits, records and liabilities, as well as the authorized tax rates and uncollected taxes and assessments of the county as it formerly existed.

Conclusion

In Michigan, the structural options available to counties occupy different positions along a continuum. The traditional general law structure, with its multipurpose commission and multi-headed executive, provides the least accountability. It is followed by the optional unified form with a county administrator appointed by the county commission, a form which transfers administrative functions to the administrator, but maintains control in the commission. The optional unified form with an elected county executive with veto powers provides more centralized direction, but is also limited to the organization provided in the statute. Toward the opposite end of the continuum is the charter county, organized according to a plan adopted by the voters and with an executive with defined authority. At the opposite end of the continuum is a structure like that of the federal government with a single elected executive and an elected legislature restricted to law making and oversight: that structure is not available for Michigan counties.

Each of the available structures has its strengths. The general law organization has provided more or less adequate county services for centuries. It has the benefit of being familiar and accepted, although its administrative weaknesses become increasingly visible as county government assumes

more diverse and more complex functions. The numerous elected officials provide the opportunity for more direct contact with citizens, but the fact that elected officials are numerous also insures that any one official has little real power to change county operations. Numerous elective positions provide more opportunity for citizens competing for office, and less accountability. Several statutes allow general law counties to establish positions (county purchasing agent, county controller, board of auditors or county auditor) which provide varying levels of administrative coordination.

Significantly greater executive coordination is provided by adoption of the optional unified form, which also avoids the complicated and potentially divisive process of developing a county charter. An appointed county administrator allows the county commissioners to retain their power and authority over some executive functions, and provides better coordination and direction in accordance with board directions. This form is therefore more likely to obtain support from members of the board of commissioners, as they are not completely removed from administrative functions.

The optional unified form with an elected executive also avoids the problems associated with developing and adopting a county charter, and provides stronger executive branch direction. Since this form provides for an independent county executive with the power to veto actions of the county commission, support by members of the county commission may be less than wholehearted. This form reduces the power and authority of the county commission and forces it into a traditional legislative role.

The most radical change in county government structure may be accomplished by adopting a county charter. Even under a charter, however, the responsibilities, authority, and limitations of the county executive are defined by state statute, by court decisions, and (to some degree) by attorney general opinions. In Michigan, only Wayne County, after experiencing extraordinary financial problems and under pressure from the state, has successfully implemented a charter form of county government. It was the Wayne County experience, and the attempts of the Wayne County Board of Commissioners and Road Commission to retain control while the county executive struggled to define and expand executive authority, that has provided a further definition of charter county government in our state.

It is unfortunate that in Michigan all the available forms of county government retain a plethora of elected offices. Numerous elective offices create a naturally competitive environment for politicians. Even in counties that have elected executives, the competition between other independently elected executive branch officers, particularly the sheriff, and the executive may be time consuming and wasteful. Such competition is not limited to the executive branch: county clerks and county boards of commissioners may clash as well.

At the national level, the president appoints executive branch department heads. At the state level, the governor appoints executive branch department heads, or appoints commission members who appoint department heads. At the city level too, the mayor either directly or indirectly appoints executive branch department heads. But at the county level, major department heads in both the executive and legislative branches are still elected directly according to the Jacksonian model, dissipating control and diluting accountability.