

STEPS TO BECOMING A CHARTER COUNTY BY JOSEPH PARNELL MCCARTER

Becoming a charter county offers Ottawa County a number of local control advantages, including the ability to get county-wide local control over electric utilities. Regarding electric, the following statement from the law should be noted: “(p) That the acquisition, operation, and sale of public utility facilities for furnishing light, heat, or power are subject to the same restrictions as imposed on cities and villages by the state constitution of 1963 and applicable law.”¹ It is clear counties can municipalize electric utility service, provided it follows certain requirements. This would be an avenue for Ottawa County to get local control over the J.H. Campbell Generating Plant.

The Relevant Law and Timing of Events

One website notes:

“When the constitutional convention met in the early 1960s, it included a directive to the state legislature to enact a statute that would provide for county home rule. In 1966, the legislature passed a county home rule act, but it permits home rule counties to be very little different from what the general law county could be. Consequently, by 1980, no county had organized under its provisions. But then the legislature modified the county home rule law substantially, giving counties organized under the act, MCL 45.505, more local determination regarding the provisions of a county charter.”²

“The process of establishing a home rule county is spelled out in the statute. The process can be initiated by a citizen petition or by a resolution of the board of commissioners. Either action leads to a referendum and election of 7 to 35 (depending on the county population) charter commissioners on partisan basis. The law requires the apportionment commission to establish districts from which individual charter commissioners are to be elected. Once elected, the charter commissioners must meet within 20 days and thereafter complete the draft charter within 180 days. The proposed charter then goes to the voters for approval. If a majority does not approve, the charter commission may make revisions and resubmit the document to the public again. If a majority of voters again rejects the document, the charter commission is dissolved and the process terminated.”³

So the Charter Counties Act 293 of 1966 spells out the law regarding becoming a charter county, and here are some of the most relevant sections from that law relating to timing:

¹ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-Act-293-of-1966.pdf>

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https://www.canr.msu.edu/news/elected_county_executives_and_county_home_rule_in_michigan_part_on_e

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https://www.canr.msu.edu/news/elected_county_executives_and_county_home_rule_in_michigan_part_on_e

“45.502 Resolution for submission of question on election of charter commission; adoption by county board of supervisors. Sec. 2. The board of supervisors of any county, by a majority vote of its members elect may, or upon petition of 5% of the registered electors of the county shall, adopt a resolution providing for the submission of the question of electing a charter commission for the purpose of framing and submitting to the electorate a county home rule charter...

45.503 Submission of question to qualified electors. Sec. 3. The resolution shall provide that the question shall be submitted to the qualified electors at the next regular primary, presidential primary, or general election occurring not less than 60 days after the adoption of the resolution. If there is not to be a regular primary, presidential primary, or general election in the county within 180 days, the county board of commissioners shall provide in the resolution for a special election on the question.

45.505 Partisan election of charter commission; nomination of candidates; petition or filing fee; primary election; composition and convening of county apportionment commission; rules of procedure; quorum; majority vote; establishment of charter commission districts; requirements for districts; use of census figures; apportionment; division; date of primary; election of charter commission; filing and availability of apportionment plan and copies thereof; judicial review; appeal; submission and filing of plan by registered voter; official apportionment plan; duration; election of 1 charter commissioner for each district; limitation on representation. Sec. 5. (1) The resolution shall provide for a partisan election of a charter commission, for the nomination of candidates for the charter commission by petitioning or filing a fee, and for a primary election of charter commission candidates...

(2) The county apportionment commission, within 30 days after the adoption of the resolution by the county board of commissioners, shall establish charter commission districts equal to the number of charter commissioners to be elected. All districts shall be single member districts and as equal in population as practicable...

(3) In a county having a population of less than 1,500,000, the date of the primary election for charter commissioners may be the same as the date for the submission of the question as provided in section 3. Otherwise, the date of the primary election for charter commissioners shall be the same as the date for the submission of the question as provided in section 3. The election of the charter commission shall be at the next primary or general election occurring not less than 60 days after the primary election for charter commissioners. If a regular primary or general election does not occur within 180 days after the date of the primary, the county board of commissioners shall provide, in the resolution, for a date on which the final election of the commission shall be held...

45.507 Passage of resolution; transmittal of copies to city, village and township clerks; notice of election, publication, posting. Sec. 7. Upon the passage of the resolution, the county clerk, within 3 business days, shall transmit a certified copy thereof to the clerk of each city, village and township in his county...

45.508 Ballots; form, content, preparation. Sec. 8. The ballot to be used for the submission of the question shall be prepared by the county clerk in accordance with the general election laws as follows: "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 county clerk shall prepare at county expense the necessary ballots for the election of the charter commission. All ballots shall be prepared and all elections shall be conducted in accordance with the election laws of this state, except that the question may be submitted at a presidential election within any county of this state...

45.509 Charter commission members; oath of office; first meeting, notice; presiding officer. Sec. 9. The members of the charter commission shall file their oath of office with the county clerk prior to the first meeting of the charter commission. The clerk shall give notice, by certified mail, to each member of the commission as to the time and place of the first meeting of the commission, which time shall be not less than 10 days nor more than 20 days after certification of election. The county clerk shall be the acting presiding officer for the commission and shall serve until a permanent presiding officer shall have been chosen from among the members of the commission...

45.510 Charter commission; organization; quorum; conducting business at public meeting; notice of meeting; record of meetings; journal of proceedings; availability of writings to public; prohibited action; duration of charter commission; ballot questions. Sec. 10. (1) The charter commission shall complete its organization within 20 days after the date of its first meeting. Its organization shall consist of seating its members, selecting its officers, and establishing its rules of procedure. A majority of the members elect of the charter commission constitutes a quorum to transact business, but a smaller number may adjourn a meeting of the charter commission...

45.511 Charter commission; draft of proposed charter, approval; dissolution upon failure to agree. Sec. 11. The commission shall draft a proposed charter within 180 days after the date of completing its organization as provided in section...

45.511a Submission of 2 alternative charter proposals; dissolution of charter commission; approval of proposed charters; differences between charter proposals; election of county executive; selection, term, and removal of chief administrative officer; declaration of charter adoption; votes; duties and responsibilities of county executive or chief administrative officer; veto of ordinance or resolution; contents of ballot. Sec. 11a. (1) In a county with a population of 1,500,000 or more the commission shall approve alternative charter proposals for simultaneous submission to the electors pursuant to the provisions of this section. (2) The commission shall approve for submission 2 alternative charter proposals not more than 180 days after the date of completing its organization as provided in section 10. If the commission fails to approve for submission 2 charter proposals within the 180-day period, the charter commission shall be dissolved. (3) Before either proposed charter is submitted to the electors, each proposed charter shall be approved by a majority of the members elected to the commission with the vote and names of the members voting on each proposed charter entered in the journal. (4) Except

as to the method of selection of a chief administrative officer or an elected county executive; the veto power of the chief administrative officer or the elected county executive; and the removal of the chief administrative officer or the elected county executive, the 2 alternative charter proposals shall not differ. (5) One charter proposal shall provide for a county executive elected at large on a partisan basis. (6) One charter proposal shall provide for a chief administrative officer. The chief administrative officer shall be selected for a 4-year term of office by a majority of the county board of commissioners elected and serving, the chief administrative officer may only be removed from office for cause by a 2/3 vote of the county board of commissioners elected and serving. (7) A charter shall be declared adopted by the electors if it receives more yes votes than no votes. If both charters receive more yes votes than no votes, the charter which receives the higher number of yes votes shall be declared adopted. An elector may vote yes or no on either, or both, of the charters...

45.516 Proposed charter; submission to governor; rejection, revision, resubmission; approval; referendum on adoption and election of officers; incumbent county officers, continuation. Sec. 16. The charter shall be submitted to the governor for approval within 30 days after its completion. The charter may be approved by the governor upon written recommendation of the attorney general that it conforms to the provisions of the constitution and the statutes of this state. The governor either shall approve or reject the charter within 30 days of its submission. If the governor rejects the charter, he shall return it to the charter commission together with a copy of his reasons therefor. Upon the return of the unapproved charter, the commission shall reconvene, consider the reasons for rejection, revise the proposed charter and submit the revised charter to the governor within a period of 45 days. Upon resubmission, the governor either shall approve or reject the charter within 30 days of its resubmission. If the governor rejects the charter, he shall notify the commission of his action and his reasons therefor. Upon the second rejection of the charter, the commission, within 30 days, either shall reconvene and revise the charter to comply with the governor's objections or it shall take all steps necessary to obtain a judicial interpretation to determine whether the charter conforms to the provisions of the constitution and statutes of this state. Upon approval of the charter by the governor or upon a final favorable judicial interpretation, the commission, within 10 days, shall fix the date, by resolution, for the submission of the proposed charter to the electorate for its adoption. The submission shall be at the time of the next regular primary election occurring not less than 60 days from the adoption of the resolution. If there is not to be a regular primary election within 180 days, the charter commission may provide in the resolution for a special election on the question of the adoption or rejection of the charter. The resolution shall also establish the date for a primary and general election of officers for the newly created elective offices, whose first term shall be for a period ending at the same time as that of the incumbent governor. Thereafter, they shall be elected for 4-year terms concurrent with the terms of the governor. The manner of nomination and election of home rule county officers shall be in all respects the same as that heretofore established for regular county officers. If the charter is submitted to the electors for approval or rejection at any time prior to the regular primary election, at which time such elective county officers as there shall be in the county are regularly nominated prior to the effective date of this act, then all incumbent elective county officers whose offices are

retained in the charter shall continue in office until the expiration of the term for which they were last elected, respectively....

45.520 Home rule county status; when change occurs; incumbent officers. Sec. 20. A county is not deemed to have changed its status from that of a regular county to a home rule county until the charter has been adopted by the electorate and the officers provided for therein have been elected. Each incumbent officer having been elected prior to the adoption of the charter and whose office has not been abolished or duties transferred to another office or department by the charter, for all purposes, shall be deemed to be a home rule county officer duly elected and qualified...⁴

5% Petition Possibility

The law allows for commencing the process thus: a “petition of 5% of the registered electors of the county shall, adopt a resolution providing for the submission of the question of electing a charter commission for the purpose of framing and submitting to the electorate a county home rule charter. The petition shall be addressed to the board of supervisors and shall be filed with the clerk of the board not less than 30 days prior to the convening of a regular session of the board or to the convening of any special session called for the purpose of considering the petition.”

It would petition for: “the Ottawa County Board of Commissioners to adopt a resolution providing for the submission of the question of electing a charter commission for the purpose of framing and submitting to the electorate a county home rule charter.”

The number of registered voters in Ottawa County is currently around 229,842.⁵ So that means it would require at least 11,842 petition signatures.

Alternatively, a majority of the Ottawa County Board of Commissioners can call the charter county commission vote without such a petition even being necessary.

Here were the steps of Macomb County:

Macomb County became a charter county back in 2009, and its example provides much important information for how Ottawa County can do it.

The Macomb County Board called for a May 6, 2008 vote of citizens on whether to elect a charter commission.

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[https://www.legislature.mi.gov/\(S\(vc5hj22mjw0qgh13olcsmdmp\)\)/mileg.aspx?page=getObject&objectName=mcl-45-505](https://www.legislature.mi.gov/(S(vc5hj22mjw0qgh13olcsmdmp))/mileg.aspx?page=getObject&objectName=mcl-45-505) and <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-Act-293-of-1966.pdf>

⁵ <https://mvic.sos.state.mi.us/VoterCount>

On May 6, 2008, Macomb County voters decided to “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.”

The Charter Commission was elected on Nov. 4, 2008 and began their work at their first meeting Dec. 4, 2008.

In June of 2009 a proposed draft was submitted and approved by Governor Jennifer Granholm and was put on the ballot for the November 2009 election.

On Nov. 3, 2009, Macomb County voters adopted the proposed county charter. Under this charter Macomb County will have 13 commissioners and an elected county executive.

Concrete Application to Timing in Ottawa County

The most likely path is for the Ottawa County Board of Commissioners to place the commission question on the ballot, which they can do by majority vote.

Macomb County’s Charter As A Starting Point Example

Macomb County’s charter provides a starting point example for Ottawa County to learn from and utilize.⁶ Therefore, it has served as the primary basis for a draft home rule charter that we are presenting to the public for consideration.

⁶ https://www.macombgov.org/sites/default/files/files/2022-12/ethics_charter-final.pdf