# APPORTIONMENT OF COUNTY BOARDS OF COMMISSIONERS

## Act 261 of 1966

AN ACT to provide for the apportionment of county boards of commissioners; to prescribe the size of the board; to provide for appeals; to prescribe the manner of election of the members of the county board of commissioners; to provide for compensation of members; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1968, Act 153, Imd. Eff. June 13, 1968 ;-- Am. 1969, Act 137, Eff. Mar. 20, 1970 ;-- Am. 1998, Act 203, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

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### 46.401 County apportionment commission; apportionment of county into county commissioner districts.

Sec. 1.

(1) Within 60 days after the publication of the latest United States official decennial census figures, the county apportionment commission in each county of this state shall apportion the county into not less than 5 nor more than 21 county commissioner districts as nearly of equal population as is practicable and within the limitations of section 2.

(2) If a county is not in compliance with section 2 on the effective date of the amendatory act that added this subsection, the county apportionment commission of that county shall, within 30 days of the effective date of the amendatory act that added this subsection, apportion the county in compliance with section 2. For subsequent apportionments in a county that is apportioned under this subsection, the county apportionment commission of that county shall comply with the provisions of subsection (1).

**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1968, Act 153, Imd. Eff. June 13, 1968 ;-- Am. 1969, Act 137, Eff. Mar. 20, 1970 ;-- Am. 2011, Act 280, Eff. Mar. 28, 2012

**Constitutionality:** The Michigan Supreme Court reversed a Court of Appeals ruling which held that the first sentence in section 1(2) of 2011 PA 280, MCL 46.401, violates section 29 of article IV of the state constitution of 1963. The Court of Appeals ruled that the provision constituted an improperly enacted local act and should be stricken from the act (Frank Houston et al. v Governor and Oakland County Board of Commissioners, Nos. 308724 and 308725). The Michigan Supreme Court, in its holding that the law is constitutional, stated that while the law may apply only to Oakland county immediately, the law could apply to any county in the future that meets the population requirements.

### 46.402 Number of county commissioners based on county population.

Sec. 2.

| County Population | Number of Commissioners |
|---|---|
| Under 5,001 | Not more than 7 |
| 5,001 to 10,000 | Not more than 10 |
| 10,001 to 50,000 | Not more than 15 |

| | |
|---|---|
| Over 50,000 | Not more than 21 |

**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1969, Act 137, Eff. Mar. 20, 1970 ;-- Am. 2004, Act 369, Imd. Eff. Oct. 11, 2004 ;-- Am. 2011, Act 280, Eff. Mar. 28, 2012

**46.403 County apportionment commission; membership; convening apportionment commission; adopting rules of procedure; quorum; action by majority vote; conducting business at public meeting; notice of meeting; availability of certain writings to public.**

Sec. 3.

(1) Except as otherwise provided in this subsection, the county apportionment commission shall consist of the county clerk, the county treasurer, the prosecuting attorney, and the statutory county chairperson of each of the 2 political parties receiving the greatest number of votes cast for the office of secretary of state in the last preceding general election. If a county does not have a statutory chairperson of a political party, the 2 additional members shall be a party representative from each of the 2 political parties receiving the greatest number of votes cast for the office of secretary of state in the last preceding general election and appointed by the chairperson of the state central committee for each of the political parties. In a county with a population of 1,000,000 or more that has adopted an optional unified form of county government under 1973 PA 139, MCL 45.551 to 45.573, with an elected county executive, the county apportionment commission shall be the county board of commissioners. The clerk shall convene the apportionment commission and they shall adopt their rules of procedure. A majority of the members of the apportionment commission shall be a quorum sufficient to conduct its business. All action of the apportionment commission shall be by majority vote of the commission.

(2) The business which the apportionment commission may perform shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1977, Act 185, Imd. Eff. Nov. 17, 1977 ;-- Am. 2011, Act 280, Eff. Mar. 28, 2012

**46.404 County commissioner districts; guidelines for apportionment.**

Sec. 4.

In apportioning the county into commissioner districts, the county apportionment commission shall be governed by the following guidelines in the stated order of importance:

(a) All districts shall be single-member districts and as nearly of equal population as is practicable. The latest official published figures of the United States official census shall be used in this determination, except that in cases requiring division of official census units to meet the population standard, an actual population count may be used to make such division. Other governmental census figures of total population may be used if taken subsequent to the last decennial United States census and the United States census figures are not adequate for the purposes of this act. The secretary of state shall furnish the latest official published figures

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to the county apportionment commissions forthwith upon this act taking effect, and within 15 days after publication of subsequent United States official census figures.

A contract may be entered into with the United States census bureau to make any special census if the latest United States decennial census figures are not adequate.

(b) All districts shall be contiguous.

(c) All districts shall be as compact and of as nearly square shape as is practicable, depending on the geography of the county area involved.

(d) No township or part thereof shall be combined with any city or part thereof for a single district, unless such combination is needed to meet the population standard.

(e) Townships, villages and cities shall be divided only if necessary to meet the population standard.

(f) Precincts shall be divided only if necessary to meet the population standard.

(g) Residents of state institutions who cannot by law register in the county as electors shall be excluded from any consideration of representation.

(h) Districts shall not be drawn to effect partisan political advantage.

**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1969, Act 137, Eff. Mar. 20, 1970

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### 46.405 Apportionment plan; filing by county apportionment commission; access.

Sec. 5.

The apportionment plan approved by the commission shall be filed in the office of the county clerk at which time it shall become effective, and copies of it shall be forthwith forwarded by the county clerk to the secretary of state for filing and shall be made available at cost to any registered voter of the county.

**History:** 1966, Act 261, Eff. Mar. 10, 1967

### 46.406 Apportionment plan; petition for review.

Sec. 6.

Any registered voter of the county within 30 days after the filing of the plan for his county may petition the court of appeals to review such plan to determine if the plan meets the requirements of the laws of this state. Any findings of the court of appeals may be appealed to the supreme court of the state as provided by law.

**History:** 1966, Act 261, Eff. Mar. 10, 1967

### 46.407 Apportionment plan; failure of apportionment commission to submit; submission by registered voter.

Sec. 7.

If the apportionment commission has failed to submit a plan for its county within 60 days but not less than 30 days after the latest official published census figures are available or within such additional time as may be granted by the court of appeals for good cause shown on petition from the apportionment commission, any registered voter of the county may submit a plan to the commission for approval. The commission shall choose from among those submitted to it a plan meeting the requirements of the laws of this state and file such plan in

the office of the county clerk as set forth in section 5 within 30 days after the deadline for the filing of the commission's own plan or any extension granted thereon.

**History:** 1966, Act 261, Eff. Mar. 10, 1967

### 46.408 Official apportionment plan.

Sec. 8.

Once an apportionment plan has been found constitutional and according to the provisions of this act and all appeals have been exhausted, or if no appeal is taken, when the time for appeal has expired, that plan shall be the official apportionment plan for the county until the next United States official decennial census figures are available.

**History:** 1966, Act 261, Eff. Mar. 10, 1967

### 46.409 County board of commissioners; number per district; prohibited representation.

Sec. 9.

The electors of each district established in accordance with this act shall elect 1 county commissioner to the county board of commissioners. There shall be no representation on the county board of commissioners other than that set forth by the provisions of this act.

**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1969, Act 137, Eff. Mar. 20, 1970

### 46.410 County commissioners; terms.

Sec. 10.

(1) The term of office of each commissioner elected before the 2024 general November election shall be concurrent with that of state representatives as specified in section 3 of article IV of the state constitution of 1963.

(2) The term of office of each commissioner elected at or after the 2024 general November election is 4 years. The term of office begins on January 1 following the election and continues until a successor is elected and qualified.

**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1969, Act 137, Eff. Mar. 20, 1970 ;-- Am. 2021, Act 122, Eff. Mar. 30, 2022

### 46.411 Candidate for office of county commissioner; qualifications; nomination; nonrefundable filing fee; eligibility.

Sec. 11.

A candidate for the office of county commissioner must be a resident and registered voter of the district that he or she seeks to represent and must remain a resident and registered voter to hold his or her office, if elected. Nominations and elections for commissioners must be by partisan elections. In order for the name of a candidate for nomination for the office of county commissioner to appear on the official primary ballot, a nominating petition or a nonrefundable filing fee of $100.00 must be filed with the county clerk. The nominating petition must have been signed by a number of qualified and registered electors residing

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within the district as determined under section 544f of the Michigan election law, 1954 PA 116, MCL 168.544f. The deadline for filing nomination petitions or filing fees is the same as for a candidate for state representative. An individual who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, is not eligible to be a county commissioner for 20 years after the conviction.

**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1969, Act 137, Eff. Mar. 20, 1970 ;-- Am. 1982, Act 504, Eff. Mar. 30, 1983 ;-- Am. 2002, Act 158, Eff. Jan. 1, 2003 ;-- Am. 2021, Act 145, Imd. Eff. Dec. 27, 2021

**46.411a County board of commissioners; candidates for office, nonrefundable filing fees, deposit and use of fees.**

Sec. 11a.

A nonrefundable filing fee paid to the county clerk in lieu of filing petitions under section 11 must be deposited in the general fund of the county and must be used only for the purchase and maintenance of voting equipment.

**History:** Add. 1969, Act 284, Eff. Mar. 20, 1970 ;-- Am. 2021, Act 145, Imd. Eff. Dec. 27, 2021

**46.411b Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 11b.

A petition under section 11, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 203, Eff. Mar. 23, 1999

**46.412 Vacancy in office of commissioner; appointment; term.**

Sec. 12.

(1) If a vacancy occurs in the office of commissioner by death, resignation, removal from the district, or removal from office, the vacancy must be filled by appointment within 30 days by the county board of commissioners of a resident and registered voter of that district. Except as otherwise provided in subsection (2), the individual appointed to fill a vacancy shall serve for the remainder of the unexpired term.

(2) If the vacancy occurs more than 7 days before the nominating petition deadline as provided in section 11 for the general November election that is not the general November election at which a successor in office would be elected if there were no vacancy, the individual appointed shall hold office only until a successor is elected at the next general November election in the manner provided by law and qualifies for office. The successor shall hold the office for the remainder of the unexpired term.

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**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1969, Act 137, Eff. Mar. 20, 1970 ;-- Am. 1972, Act 180, Imd. Eff. June 17, 1972 ;-- Am. 1978, Act 18, Imd. Eff. Feb. 15, 1978 ;-- Am. 1982, Act 504, Eff. Mar. 30, 1983 ;-- Am. 2013, Act 84, Imd. Eff. June 28, 2013 ;-- Am. 2021, Act 122, Eff. Mar. 30, 2022

### 46.413 Failure to fill vacancy; special election.

Sec. 13.

(1) If the county board of commissioners does not fill a vacancy in the office of commissioner as provided in section 12 within 30 days, that vacancy shall be filled by a special election. The special election shall be called by the county board of commissioners.

(2) The person elected at the special election to fill the vacancy in the office of commissioner shall serve for the remainder of the unexpired term.

**History:** Add. 2013, Act 84, Imd. Eff. June 28, 2013

### 46.414 Repeal; effective date; validity of actions.

Sec. 14.

Section 27 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.27 of the Compiled Laws of 1948, is repealed. This section shall become effective in any county upon taking office of supervisors elected pursuant to this act. Any action taken by any board of supervisors shall not be invalid solely due to the provisions of this section.

**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1968, Act 153, Imd. Eff. June 13, 1968

### 46.415 County board of commissioners; compensation and mileage reimbursement of members.

Sec. 15.

(1) A member of the county board of commissioners shall receive the compensation and mileage reimbursement fixed by resolution of the county board of commissioners or for a county which has a county officers compensation commission, fixed by a determination of the county officers compensation commission which is not rejected.

(2) The per mile mileage reimbursement fixed by the county board of commissioners or the county officers compensation commission shall not exceed the mileage reimbursement set for state officers as determined by the state officers compensation commission.

(3) Except as provided under subsection (5), changes in compensation shall become effective only after the time members of the county board of commissioners commence their terms of office after a general election, provided that it is voted upon before the commencement of the new terms of office, or for a county which has a county officers compensation commission, after the beginning of the first odd numbered year after the determination is made by the county officers compensation commission and is not rejected.

(4) This section shall not be construed to prohibit a structured change in compensation implemented in phases over the term of office.

(5) A change in compensation under subsections (1) and (3) may be made in 2005 to be effective on or after January 1, 2006.

(6) As used in this section, "compensation" shall not include mileage reimbursement.

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**History:** 1966, Act 261, Eff. Mar. 10, 1967 ;-- Am. 1968, Act 153, Imd. Eff. June 13, 1968 ;-- Am. 1969, Act 137, Eff. Mar. 20, 1970 ;-- Am. 1975, Act 207, Imd. Eff. Aug. 21, 1975 ;-- Am. 1978, Act 476, Eff. Dec. 1, 1978 ;-- Am. 1980, Act 187, Imd. Eff. July 3, 1980 ;-- Am. 2005, Act 20, Imd. Eff. May 5, 2005

### 46.416 References to county supervisors deemed to mean county commissioners.

Sec. 16.

All references to county supervisors or county boards of supervisors in any other act shall be deemed to mean county commissioners and county boards of commissioners as established by this act and such county boards of commissioners shall be the county board of supervisors referred to in article 7 of the state constitution.

**History:** Add. 1969, Act 137, Eff. Mar. 20, 1970

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