

A BRIEF HISTORY OF LOCAL GOVERNMENT CHARTERS IN OHIO

Counties were created individually by acts of the General Assembly, and the form of county government was first established in 1803 and remains essentially the same today, with three elected county commissioners having both executive and legislative powers, and additional elected officers including the auditor, prosecuting attorney, treasurer, engineer, coroner, sheriff, recorder and clerk of courts, who control their individual offices.

Municipalities (cities and villages) initially were individually chartered by the General Assembly. Even after laws were passed to enable citizens to incorporate municipalities, the General Assembly used an elaborate system of classification by population to legislate for individual cities and villages. This led to log-rolling, favoritism and other abuses, along with meddling by the state government in local affairs.

The Ohio Supreme Court, by enforcing against such laws the constitutional requirement that general laws must be of uniform application, restricted the ability of the General Assembly to legislate for individual local governments. Laws that were passed to provide for standard forms of government for cities and villages were found to be inadequate to meet varied needs of municipalities of differing sizes, locations, etc.

The 1912 Constitutional Convention, as one of its principal recommendations, proposed the amendment that became Article XVIII of the Ohio Constitution, which provided for the power of local self-government for all municipalities (“home rule”) and for the ability of the people of a municipality to adopt a charter to provide for the structure and powers of their own city or village. Now, the overwhelming majority of Ohio municipalities are governed by charters. Only Parma of all of the cities in Cuyahoga County has not adopted a charter. Nearly all of those charters provide for a mayor-council form of government and for the appointment of most of the administrative officers of the municipality.

In 1933, pursuant to a citizen petition, the Constitution was amended to provide in Article X for the citizens of a county also to have the ability to adopt a charter to provide for the structure and powers of the county government. A majority of the voters of Cuyahoga County and in the City of Cleveland soon after approved a proposed county charter, but it was invalidated by the Ohio Supreme Court on the ground that the proposed charter in question also needed to be approved by two additional majority votes.

Until a constitutional amendment was adopted by the voters of Ohio in the 1970s to allow for a county charter to be placed on the ballot pursuant to a petition, a county charter, similar to the procedure that still applies to municipal corporations, could be proposed only by an elected fifteen-member commission. Following the defeat of two proposed charters in Summit County in the 1970s, the voters of that county in 1979 approved the proposed charter that was drafted by a citizens committee and placed on the Ballot by a petition signed by ten percent of the registered voters in the county.

Article X of the Ohio Constitution provides also for the adoption by the voters of a county of what is called an alternative form county government. An alternative form can provide for an elected or appointed county executive, for a legislative body of various sizes, and for the creation of departments of finance, law, etc., but would leave intact all of the other elected county offices. No alternative form of county government has yet been adopted in any county.

A county charter unless it is approved by three (in some cases four) separate groups of voters in the county may not provide for the county to exercise the powers of any municipality or township in the county without the consent of the legislative authority of the municipality or township. The charter can provide for the structure of the county government, including the number of officers and which of them shall be elected or appointed, but n must provide for the exercise of all of the powers and duties of counties and county officers provided by state law. A county that has not adopted a charter can exercise only those powers that are specifically provided for by statute or that are necessarily implied by those expressly granted powers. Under a charter, a county can assume the ability to exercise powers that are not precluded by constitutional or statutory limitations.

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