

Manistee County Apportionment Commission Minutes

The Manistee County Apportionment Commission met on Tuesday, July 20, 2021 at 2:00 p.m. in the County Board of Commissioner's Room. The meeting was called to order by Acting Chair, Jill M. Nowak, County Clerk.

Pledge of Allegiance

Roll call was taken by the Clerk and all members reported present:

Jason Haag, Prosecuting Attorney; Rachel Nelson, County Treasurer; John Helge, Chairperson Democratic Party; Jeff Lawrence, Chairperson Republican Party; and Jill M. Nowak, County Clerk.

Others Present: Lisa Sagala, County Administrator/Controller.

PUBLIC COMMENT

None.

REVIEW OF MATERIAL DISTRIBUTION BY ACTING CHAIR

Clerk Nowak reviewed the items that she had sent out with the agenda for the meeting. Appendix A – Act 261 of 1966; Appendix B – Proposed Apportionment Commission Rules of Procedure; Appendix C – Guidelines for apportionments and Appendix D – Time Frames.

ELECT CHAIRPERSON

Moved by Haag, seconded by Lawrence to elect Jill Nowak as Chairperson of the Commission. Ms. Nowak declined nomination.

Moved by Nowak, seconded by Helge to elect Jason Haag as Chairperson of the Commission. Mr. Haag accepted the nomination. **Ayes: All. Motion Carried.**

ELECT VICE CHAIRPERSON

Moved by Nowak, seconded by Lawrence to elect Rachel Nelson as Vice Chairperson of the Commission. Ms. Nelson accepted the nomination. **Ayes: All. Motion Carried.**

ELECT SECRETARY

Moved by Lawrence, seconded by Nelson to elect Jill M. Nowak as Secretary of the Commission. Ms. Nowak accepted the nomination. **Ayes: All. Motion Carried.**

REVIEW AND ADOPTION OF THE RULES OF PROCEDURE

The Commission reviewed the Proposed Rules of Procedure (Appendix B) and Guidelines for Apportionments (Appendix C), that were attached to the agenda. Ms. Nowak noted that through training at the Michigan Association of County Clerk's (MACC) conference, this is the example that was used, and it is very similar to what was used in 2010. The Guidelines for Apportionment (Appendix C) and Time Frames (Appendix D) just give more specifics as to the rules and includes details of the law.

Moved by Nelson, seconded by Helge to accept the Rules of Procedure as presented. **Ayes: All. Motion Carried.**

DISCUSSION

There are currently seven (7) County Commissioners. The first job of the Commission is to determine how many Commissioners there will be. This will also determine how many districts there will be in the County. This decision is based on the census numbers which have not been released yet, minus the Oaks Correctional Facility and County Jail population. In 2010, two districts changed slightly, District 6 (a City of Manistee district), moved a bit more south because the City of Manistee had lost population; and District 5 (Onkama area), the northern line moved to include a portion of Onkama Township lying West of M22 and north of Portage Lake. The Secretary of State is anticipating releasing census numbers when they get them around September/October 2021. Software will be available from the State of Michigan, if needed. In 2010, the Commission had received CDs with census data and between that information, the Equalization Department and GIS mapping from the County Planning Department, we were able to create maps and census data. This seemed to work out well and it saved the County money by not hiring a vendor or having to buy more software. Ms. Sagala indicated that she will reach out to the Planning Department for assistance when needed in the future. It is anticipated that preliminary numbers may be available in August sometime. Once the official numbers are received, there is not much time to get a plan submitted to the state. The timeline is very short. All meetings of the Apportionment Commission are open to the public.

PUBLIC COMMENT

None.

SCHEDULE NEXT MEETING

The next meeting is tentatively scheduled for August 17, 2021 at 2 p.m. in the County Board of Commissioners Room. Hopefully, preliminary numbers are available by that time.

Adjourned at the Call of the Chair at 2:27 p.m.



Jill M. Nowak, Secretary of the Apportionment Commission

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:

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 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.

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. The term of each commissioner shall be concurrent with that of state representatives as specified in article 4, section 3 of the state constitution.

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

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

Sec. 11. A candidate for the office of county commissioner shall be a resident and registered voter of the district that he or she seeks to represent and shall remain a resident and registered voter to hold his or her office, if elected. Nominations and elections for commissioners shall 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 \$100.00 filing fee shall be filed with the county clerk. The nominating petition shall have been signed by a number of qualified and registered electors residing 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. A person 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.

46.411a County board of commissioners; candidates for office, filing fees, returns and forfeitures.

Sec. 11a. For candidates paying a filing fee in lieu of filing petitions under section 11, the filing fees shall be returned to all such candidates who shall be nominated and to a like number of candidates who are next highest in order thereto in the number of votes received in the primary election; and in case 2 or more candidates shall tie in having the lowest number of votes allowing a refund hereunder, the sum of \$100.00 shall be divided or prorated among them. The deposits of all other defeated candidates, as well as the deposits of all candidates who may withdraw or be disqualified, shall be forfeited and the candidates shall be notified of the forfeitures.

History: Add. 1969, Act 284, Eff. Mar. 20, 1970.

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; special election.

Sec. 12. (1) When a vacancy occurs in the office of commissioner by death, resignation, removal from the district, or removal from office, the vacancy shall be filled by appointment within 30 days by the county board of commissioners of a resident and registered voter of that district. A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, shall not be eligible for appointment to the office of county commissioner for a period of 20 years after conviction. Subject to subsection (2), the person appointed to fill a vacancy shall serve for the remainder of the unexpired term.

(2) A special election scheduled for August 6, 2013 by a county board of commissioners to fill a vacancy

in the office of commissioner that occurred in 2013 before the effective date of the amendatory act that added this subsection shall be held, and the person elected at the special election held on August 6, 2013 to fill the vacancy in the office of commissioner shall serve for the remainder of the unexpired term.

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 304, Eff. Mar. 30, 1983;—Am. 2013, Act 84, Imd. Eff. June 28, 2013.

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.

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.

MANISTEE COUNTY APPORTIONMENT COMMISSION RULES OF PROCEDURE

1. In accordance with the law, three or more members of the Commission represent a quorum at any meeting. A majority vote of the Commission is required so that action can be taken.
2. The sum of all cities, villages and townships in the county shall be used as a total county population figure in preparing a plan.
3. Only members of the Apportionment Commission may submit plans except as otherwise provided by law. (MCL 46.407, sec. 7)
4. In apportioning the County into Commissioner Districts, the commission shall be governed by the guidelines in MCL 46.404, sec. 4 and pertinent to federal and state court rulings.
5. Each plan submitted shall contain the following information:
 - A. Two Manistee County maps clearly identifying each proposed Commissioner district. One map shall be used for verification purposes and one map shall be made available for inspection in the office of the County Clerk.
 - B. Seven copies of detailed census information clearly indicating the population figures in each proposed district. One copy shall be used for verification purposes, one copy shall be made available for inspection in the office of the County Clerk and the Chairman shall have one copy delivered to each of the five commissioners for their consideration within 24 hours.
 - C. A word description of each district shall be made available for clarification purposes.
6. The County Clerk shall have delivered to each member all census information within 15 days after the date the Secretary of the State of Michigan certifies the Federal Census figures.
7. All plans shall be submitted to the office of the County Clerk within 30 days (MCL 46.407) after the date the Secretary of State certifies the census. The County Clerk's office shall time stamp, assign a number and indicate the author's name on each plan received.
8. The author of each plan may make amendments to his or her plan for the purpose of making adjustments to district lines and/or population figures. Amendments that basically represent a whole new plan shall not be permitted.

9. Errors found in the verification process of a plan shall be noted in writing. The Chairman shall make six copies of the noted errors and shall have one copy available in the office of the County Clerk and have one copy delivered to each of the five commissioners within 24 hours. If a plan is verified as being correct, the Chairman shall have each member notified in writing. Correction of errors shall be made by the author in the form of an amendment to the plan.
10. Amendments shall be delivered to the office of the County Clerk within 40 days after the date the Secretary of State certifies the census.
11. Amendments to each plan shall contain the same information required in numbers 5 A and B of these Rules of Procedure as well as the author's name and the assigned plan number.
12. A final plan shall be verified and approved by the Commission within 60 days after the latest official published census figures are available.
13. Meetings of the Commission shall be set as follows:
 - A. Upon call of the Chairman
 - B. Upon a signed written request to the Chairman by three (3) members.
 - C. By majority vote of the members present at a meeting.
14. All meetings of the Apportionment Commission shall be held in compliance with the Open Meetings Act (Act 267 of Public Act 1976, MCL 15.261 to 15.275).
15. Any writing prepared, owned, used in possession of, or retained by the Commission in the performance of an official function shall be available to the public in compliance with Act 442 of Public Act 1976, MCL 15.231 to 15.246 (Freedom of Information Act). (MCL 46.403, sec. 3(3)).
16. Roberts Rules of Order, Latest Edition, shall be the Parliamentary Authority.
17. These Rules of procedure may be amended at any regular meeting of the Manistee County Apportionment Commission by a majority vote of the Board, provided that the amendment is submitted in writing and properly noticed before that meeting.

THESE RULES OF PROCEDURE ARE ADOPTED BY THE MANISTEE COUNTY APPORTIONMENT COMMISSION ON _____.

 Manistee County Apportionment Commission, Chairman

MANISTEE COUNTY
GUIDELINES FOR APPORTIONMENTS

1. All districts shall be single-member districts and as nearly of equal population as practicable. (See below)
2. All districts shall be contiguous.
3. All districts shall be compact and of as nearly square shape as is practicable, depending on the geography of the county area involved.
4. No Townships 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.
5. Townships, villages, and cities shall generally be divided only if necessary to meet the population standard.
6. Precincts shall be divided only if necessary to meet population standard.
7. Residents of state institutions who cannot by law register in the county as electors shall be excluded from any consideration of representation.
8. Districts shall not be drawn to effect partisan political advantage.

The Standard is Equal Population. A percentage deviation is allowed:

1. Determine the number of Commissioner Districts and divide by total number of county residents submitted by the Census Bureau. **This will be the average or median.**
2. Start putting together districts – taking into account the median.
3. Multiply your median population by 1.0595. This will give you what your highest populated district should be:
Median x 1.0595 = Highest population
4. Multiply your Median Population by .9405. This will give you what your lowest populated district should be:
Median x .9405 = Lowest population.

i.e. Tuscola County case established the 11.9% - Range of Deviation:
 $1.0595 - .9405 = 11.9\%$

MANISTEE COUNTY TIME FRAMES

<u>Key</u>	<u>Publication of Census Figures</u>
15 days	Secretary of State furnishes numbers to County Clerk.
60 days	Days for County Apportionment Commission to act.
60 (not more than)	Days to file with County Clerk
30 (after plan is filed)	Days registered voter may petition the Court of appeals to determine legalities
90 + days	Days to appeal to the Supreme Court.
30 – 60 days	Days for Court of Appeals to grant more time.
30 – 60 days	Days if Apportionment Commission fails to submit, registered voter may submit a plan to be chosen and filed with the County Clerk.
30 days	Days after time for appeals is exhausted. Final apportionment until 2030.