

# Charter Government Comparative Practices

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Pinellas County Charter Review Commission

## European Origin of County Structure

- France, Germany – Divide country into subdivisions known as “Counts”
- England (9<sup>th</sup> century) – “Shires”
  - Appointed head of the Shire: the “Shireeff”
  - Shireeff = Keep order; Collect Taxes

# Florida History

- 1821 - Andrew Jackson issues first ordinance:
  - divided State into two counties
  - recognized cities of Pensacola and St. Augustine
  - identified governmental powers and role in delivering state-mandated services
  - provided that five Justices of the Peace would govern each County

# Florida History

- 1822 – Territorial Council consisting of 13 appointees
  - Four Counties:
    - Escambia
    - St. Johns
    - Jackson
    - Duval

# Florida History

- 1838 – BCC established by General Assembly
- 1845 – Florida becomes State
- 1861 – Florida Constitution specifically provides for county government
- 1885 – Provisions for counties and cities recognized in separate articles of Constitution. Counties formed, amended or abolished by Legislature; are subdivisions *of the State*. (Cities = subdivisions *in the State*.)

# Florida History

- Board of County Commissioners
  - 1868 – Governor appoints all county officers, including “Treasurer” and “Surveyor”
  - 1885 – Commissioners appointed, other county officers elected
  - 1900 – Commissioners elected
  - 1968 - Home Rule authorized

# Florida History

- County Formation – By general law of the Legislature in Chapter 7, FS
- Last County to be formed - Gilchrist in 1925
- Recently discussed formations
  - Beach communities in Duval, Volusia
  - Cape Coral
  - Hialeah

# Florida History

- Historically, counties viewed primarily as subdivisions *of the state* . . . . Value property & collect taxes, conduct elections, provide for judicial system, etc.
- Collegial governing body with five other offices that operate independently of the BCC

# Florida History

- Higher Service Level or Different Structure?
  - Incorporate as City Government and/or seek Special Act of Legislature
- Operated under “Dillon’s Rule”

## John Dillon -

- Iowa Supreme Court Justice, writer and scholar.
  - "Those best fitted by their intelligence, business experience, capacity and moral character" usually do not hold local office. The conduct of municipal affairs generally was "unwise and extravagant."
  - Clark v. City of Des Moines (1865) - Local governments were creations of the state and, therefore, had only those powers granted by the state.

# Florida Constitution 1968 Revisions

Dillon's Rule  
*replaced by*  
Home Rule

## Dillon's Rule

- A local government has only those powers which are specifically granted by the State.

## Home Rule

- A local government has all powers of self-government except those that are specifically prohibited or pre-empted by the State.

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## Dillon's Rule

- Look for Authorization. Absent authorization, powerless to act.

## Home Rule

- Look for Prohibition. Absent prohibition, empowered to act.



# 1968 Florida Constitution

## *Dillon's Rule replaced by Home Rule*

- Non-charter counties - all powers of self-government as provided by law (implemented in 1971 and 1972)
- Charter counties - all powers of self-government not inconsistent with general law or special law approved by vote of the county electorate

## Electorate in 20 of 67 Counties Have Adopted Charters

COUNTY	Adopted	Population	# Cities
Alachua	1987	228,607	9
Brevard	1994	494,102	15
Broward	1975	1,669,153	30
Charlotte	1986	148,521	1
Clay	1991	149,901	4
Columbia	2002	58,372	2
Duval	1968	809,394	5
Hillsborough	1983	1,055,617	3
Lee	1996	475,073	5
Leon	2002	248,039	1

## Electorate in 20 of 67 Counties Have Adopted Charters

COUNTY	Adopted	Population *	# Cities
Miami-Dade	1957	2,312,478	31
Orange	1986	955,865	13
Osceola	1992	193,355	2
Palm Beach	1985	1,183,197	37
Pinellas	1980	933,994	24
Polk	1998	502,385	17
Sarasota	1971	339,684	4
Seminole	1989	387,626	7
Volusia	1971	459,737	17
Wakulla	2008	30,700	2

*\* About 80% of Florida's residents live in a charter county.*

## Key Policies

- County charters adopted, amended, repealed only by vote of the electorate
- Charters may provide alternative methods of selecting County Officers and may transfer duties to other positions
- Size, terms, districting schemes of County Commission and Executive Branch may be changed
- Charter counties have all powers not inconsistent with general (or voted special) law; charter must specify if county ordinance prevails over that of a city

## Article VIII – Section 1

County charters adopted, amended or repealed *only* by vote of the electorate -

- (c) GOVERNMENT. Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended or repealed only upon vote of the electors of the county in a special election called for that purpose.

## Article VIII - Section 1

Charters may provide alternative methods of selecting County Officers; may abolish and transfer duties to another position -

- (d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office. When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds.

## Article VIII - Section 1

Size, terms, districting schemes of County Commission may be changed -

- (e) COMMISSIONERS. Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five or seven members serving staggered terms of four years. After each decennial census the board of county commissioners shall divide the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner residing in each district shall be elected as provided by law.

## Article VIII - Section 1

Charter counties have all powers not inconsistent with general (or voted special) law; charter specifies if county ordinance prevails over that of city -

- (f) NON-CHARTER GOVERNMENT. Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

## Article VIII - Section 1

Charter counties have all powers not inconsistent with general (or voted special) law; charter specifies if county ordinance prevails over that of city -

(g) CHARTER GOVERNMENT. Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

Broward vs. Volusia vs. Pinellas ?

*depends upon the language of the Charter  
as adopted by the local electorate*

# Example Policy Areas

*Primary policy areas that may be effected by charters are:*

- Legislative-Executive Branch
- County Constitutional Officers
- City-County Relations
- Powers reserved to The People

# Legislative Branch

- Districting Schemes
  - number of Commissioners
  - at-large
  - single member
  - mixed

# Legislative Branch

- Election methodology
- Terms of Office – Length/Limits
- Salaries

# Legislative Branch

## Practices

Broward	9 single-member
Duval	14 single, 5 at-large; elected executive
Hills.	4 single, 3 at-large (no residency)
Dade	13 single; elected executive
Orange	6 single; elected Mayor
Palm Beach	7 single
Volusia	5 single, 2 at-large (one elected Chair)

# Executive Branch

- Head of Executive Branch
  - Appointed Professional Administrator
  - Elected Chair – Tallahassee/Volusia
  - Strong Chair/Mayor – Orange/Orlando
  - Elected Executive – Duval/Tampa

# Executive Branch

- Appointed Administrator
  - Hiring policy
  - Termination policy
  - Qualifications
  - Non-interference clause



# Executive Branch

## Elected Chair

- Directly selected by Voters for four year term
- Chairperson of BCC
- Ceremonial leader of county
- Manager retained, who is hired/fired by BCC
- Chair remains as a voting member of BCC

# Executive Branch

## Elected Mayor

- Chairperson of BCC
- Ceremonial and managerial leader of county
- Retains Manager, who reports to Mayor
- Remains member of BCC

# Executive Branch

## Elected Executive

- Ceremonial and managerial leader of county
- Not a member of BCC
- Charter may or may not retain position of Manager
- Highest level of Separation of Powers between Executive and Legislative

# Executive Branch

## Practices

- Duval Mayor (elected executive)
- Dade Mayor (elected executive)
- Orange Mayor (“strong” chair)
- Volusia Chair (“weak” chair)

## County Officers

- Leave as in current law
- Elected charter officers
- Appointed charter officers

## County Officers

<u>Office</u>	<u>Budget/Fee?</u>	<u>Primarily Serves</u>
Clerk (BCC)	Budget	BCC
Appraiser	Fee	County, cities, schools, state ( <i>i.e.</i> school funding)
Sheriff	Budget	Countywide citizenry
Supervisor	Budget	County, state, schools, districts
Collector	Fee	County, state, cities, schools, districts

# County Officers

- Policy questions/issues
  - responsiveness
  - independence
  - officers of the state chosen by voters at county level

# County Officers

- Policy questions/issues
  - responsiveness
  - independence
  - budget approval
  - “team” approach
  - performance audit
  - uniform support services

# County Officers

- Uniform support services
  - personnel
  - purchasing
  - risk management
  - data processing
  - audit
  - fleet management

# County Officers

- Other issues
  - recall
  - non-partisan elections

# County Officers

## Practices

- Broward
  - Clerk/Collector abolished & transferred to Dept of Finance under County Administrator
  - Commission Auditor Created
- Clay
  - Clerk's duties transferred to County Administrator
  - Commission Auditor created
- Duval
  - Elected Charter Officers
  - Council Auditor

# County Officers

## Practices

- Miami-Dade
  - Charter Officers
  - Commission Auditor Created
- Orange
  - Elected Comptroller
  - Comptroller audits all Constitutional Officers
- Osceola
  - Clerk's duties transferred to County Administrator
  - Commission Auditor created

# County Officers

## Practices

- Volusia
  - Abolishes all Constitutional Officers
  - Commission Auditor Created
  - Sheriff, Appraiser and Supervisor are elected Charter Officers

# Countywide Policy

- Policy on county ordinances in city limits
  - default - city prevails
  - typical alternative - county prevails in specific policy areas but cities permitted to have more stringent standards
- Requires single, countywide vote of electorate

# Countywide Policy

## Practices

- Alachua – Environmental
- Broward – Land Use Planning; Environmental
- Charlotte – Impact fees for countywide facilities
- Columbia – Environmental; adult entertainment; protection of LOS on county roads
- Duval – (consolidated government)

# Countywide Policy

## Practices

- Hillsborough – Environmental (EPC)
- Miami Dade – (metropolitan government)
- Orange – Environmental; adult entertainment
- Palm Beach – Protection of wells/wellfields; impact fees for county facilities
- Sarasota/Seminole – continuation of county land use policy after annexation

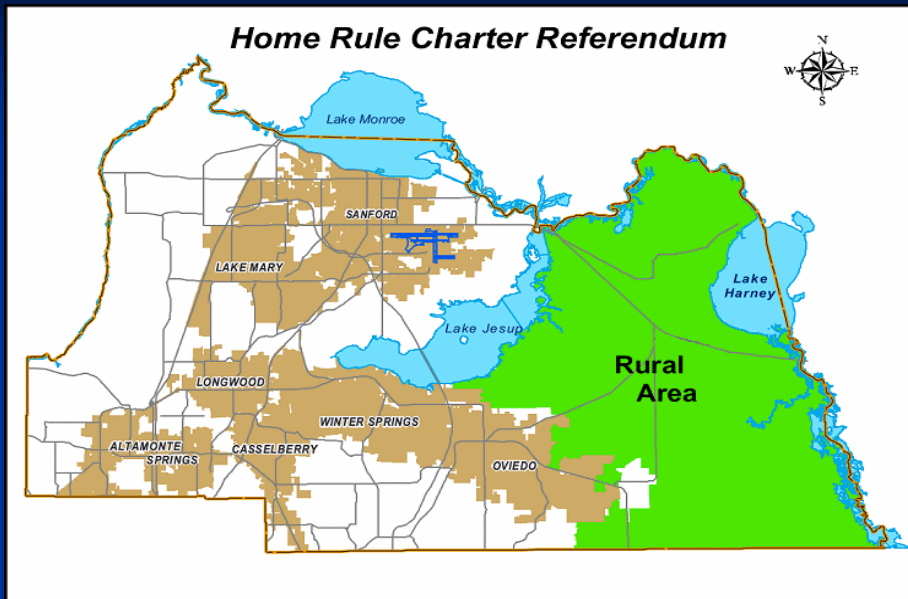


# Preservation of Rural Lands

- Current practice: After annexation, municipal land-use policies apply to annexed territory
- Charter may be amended to provide that county comprehensive plan's policies continue to apply to rural area, even after annexation
- May include provisions on future amendments to the county comprehensive plan - requiring consultation with cities, extraordinary vote of BCC to amend, etc.

## SEMINOLE COUNTY

### *Home Rule Charter Referendum*



## Countywide Programs

- Functional Consolidation - Transfer of programs/assets/people
  - e.g. police
  - Requires dual (concurrent) vote of the electorate

## Citizen Initiative

- Ordinances proposed and adopted by petition
- Policy questions
  - by what percentage/distribution of electorate?
  - excluding which subject areas?
  - procedure for BCC action

# Charter Amendment Process

- Charter Amendments proposed by:
  - BCC
  - Citizen petition
  - Charter Review Commission

# Charter Amendment Process

- Policy questions
  - Single subject rule
  - Membership/composition of CRC
  - Independent CRC or Advisory Committee

## Common to All Charters

- ✓ Public enjoys ability to amend charter in the future; BCC may place amendments on ballot at anytime.
- ✓ BCC subject to recall as provided in state law.
- ✓ County enjoys increased protection from hostile Special Acts.
- ✓ Unless charter specifically prohibits, BCC has power to levy utility tax in unincorporated area.
- ✓ New municipal CRAs must receive BCC approval.

## Final Thoughts

**Politics**  **Policy**

- All charters reflect unique history and sentiments of the local community
- All charter provisions embody elements of both “politics” and “policy”

# Final Thoughts

## Pinellas Charter is Unique

- Amendments concerning Constitutional Officers must receive approval of Legislature
- Amendments authorizing adoption of countywide policy by BCC require “dual vote”

# Questions?

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