
RESTRUCTURING LOCAL GOVERNMENT LEGISLATIVE/EXECUTIVE RELATIONSHIPS— THE ORANGE COUNTY EXPERIMENT

by

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The voters of Orange County adopted major changes to their county charter in 1988, and in doing so, embarked upon one of the more noteworthy experiments in local government structural change in Florida since the Jacksonville/Duval consolidation of the late 1960s. Although the changes made by the Orange County electorate did not seek to consolidate county government with one or more municipalities, significant changes in the legislative and executive/administrative roles of county government resulted. While the voters in Duval opted for the "elected executive" form of government, Orange County voters approved the "county chairman/administrator" form.¹ The purpose of this article is to describe the changes to the structure of the county government that have been adopted by the local electorate, and to compare that structure with other models used by local governments in Florida and other states.

HISTORY

On November 4, 1986, voters approved a charter that left much of the current structure of the county intact. The "legislative" branch of the county government was the county commission. Five commissioners resided in separate districts but were elected on a countywide basis. They, in turn, annually selected a com-

mission chairman, who presided over meetings and acted as a spokesperson for the governing body. An appointed county administrator served as head of the "administrative" branch of the county. The administrator was retained and could be dismissed by a majority vote of the county commission and, in turn, was authorized to hire key department heads—subject to confirmation by the county commission. He prepared and submitted an annual budget to the commission and was generally responsible for the day-to-day operations of the county government.

Under the 1986 charter, the county attorney's office reported directly to the county commission; the roles of the constitutional officers² were left unchanged. The relationship of the county government to its municipalities was essentially left alone. However, the county was granted the power to adopt minimal regu-

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latory standards for air and water pollution control on a countywide basis.

The 1986 charter also required that the question of restructuring the county commission into single-member districts be placed on the general election ballot in 1988 and that a charter review commission be established to conduct a study of all phases of county government. The charter review commission's recommendations were also to be placed on the November 1988 ballot. The 15 members of the charter review commission were appointed in August of 1987. Their final report was issued July 27, 1988, and was not subject to modification by the county commission.

1988 AMENDMENTS

The charter review commission's recommendations were approved by the electorate in November of 1988 and are scheduled to begin being phased-in during the general elections of 1990, with transition being completed during the 1992 general elections. Several significant changes to the charter were adopted by the Orange County electorate, as follows.

1. Executive Responsibilities

All administrative/executive functions are now contained within the "executive" branch of county government. (The "administrative" branch was appropriately renamed.) The executive branch is composed of a county chairman elected countywide; the county administrator, hired by the chairman and confirmed by the board of county commissioners (but terminated only by the chairman); and other officers and employees of the county not otherwise working for the constitutional officers.

The chairman's position is designated as both the ceremonial and operational head of the government for those activities under the control of the board of county commissioners. His salary is initially set at \$80,000 per year and thereafter fixed by ordinance. He is elected to a four-year term and may serve no more

than two consecutive terms. In addition to having broad operational responsibilities, the chairman serves as chair of the commission and is permitted to vote on all matters before the board.

The position of county administrator is retained, although most of the administrator's duties, which are specifically identified in the charter, are transferred to the chairman. The administrator is now charged with assisting the chairman in the daily management of the county.

2. Legislative Responsibilities

The charter amendments abolish the system of five commissioners elected on an at-large basis and replace it with six commissioners elected from single-member districts. Their elections are staggered so that three seats are up for election every two years. The first three, in addition to the chairman's position, will be decided this November.

The new charter initially fixes the salary of the new commissioners at \$25,000 per annum—a significant decrease from the \$46,353 that Chapter 145, Fla. Stat., prescribes for a county the size of Orange. Salaries will subsequently be set by ordinance.

The charter specifically states that commissioners shall "only devote" such time as is necessary to perform the legislative responsibilities of their offices. The "legislative" branch, formerly called the "county commission," was renamed the "board of county commissioners."

The Office of Legal Services is now constituted as a division under the county chairman. Previously, the county attorney reported directly to the county commission, and was appointed or removed by a majority vote thereof.

COMPARISONS WITH OTHER JURISDICTIONS

The trend to a single position designated for managerial purposes in county governments is increasing nationwide. A recent survey conducted by the National Association of Counties

shows that now over 1100 of the nation's 3100 counties have chief administrator positions. Of those, 383 are occupied by an elected executive or a similar position, such as the county chairman.

In Florida, at least half of the 67 counties have established the position of county administrator, but the only elected executive can be found in Jacksonville/Duval County. In that jurisdiction, the mayor functions as a true elected executive and possesses veto power over most types of ordinances. The 19-member council elects its own president to chair its meetings and appoint members to the council's standing committees. The mayor does not sit with the council.³

ANALYSIS

The question of a chief elected executive officer in local government has been the subject of much debate. While this form of county government is common in some states, it is generally the exception to employing professional administrators in jurisdictions large enough to warrant full-time management. But it is becoming more common in large jurisdictions where problems related to rapid growth, or a diverse population or set of economic interests, make the traditional commission/administrator structure less capable of dealing with complex issues in a timely fashion. As with most political decisions, however, the system adopted by the charter review commission and the Orange County electorate is a compromise. It will take years before observers of local government in Florida will be able to determine whether the new structure works as planned.

One goal of the charter review commission was to establish a system where political accountability and responsibility for building consensus when setting the political agenda for the county are located in a single position, which is directly responsible to the electorate. In many large jurisdictions, it is becoming increasingly

difficult for the appointed administrator to forge political consensus among five or seven co-equal elected officials. It was hoped that electing the chief executive would permit that person to set the future course for the community more aggressively.

Although the charter revisions establish the Office of County Chairman, the real power of that position remains to be seen. Many individuals on the charter review commission felt the chairman should have veto power, thereby strengthening his authority. The position would be similar to that of the mayors of Jacksonville and Orlando. However, a compromise position was adopted that did not include that power in the ballot question for fear it would become too controversial and none of the amendments would pass.

It should be noted that under the county chairman/administrator system as adopted in Orange County, separation in the charter between the legislative and executive functions of government is not absolute, as it is in Jacksonville/Duval County. In an elected executive system, the executive officer typically never attends meetings of the legislative body. In Orange County, the chief executive officer sits with the legislative body and chairs each meeting. The possibility for political linkages between executive/administrative decisions and legislative decisions will occur frequently. Therefore, although the executive responsibilities of the chairman's office are somewhat limited without the veto power, its legislative authorities have not been restricted. The chairman will have the ability to influence legislative policy directly at each of the commission meetings.

The sharing of executive power with the legislative branch (and vice versa) is also found in other sections of the charter revisions. For example, although the chairman has authority to appoint and dismiss staff of the executive branch, the charter provides for the annual appointment of all department and division

heads, subject to confirmation by the board. Again, it is possible that legislative involvement in administrative decisions will occur more frequently under this system than under a true elected executive form of government.

An additional general concern of the charter review commission was the pending amendment to establish single-member districts in the county. The original charter called for the question to be placed on the 1988 general election ballot. The review commission was concerned about the fragmenting effect that such a provision might have on county government if no other balancing measures were adopted. It was hoped that a chief executive officer, elected countywide, would take a broad political view, thus offsetting the tendency of officials elected from single-member districts to have a more narrow perspective on issues.

The effect of eliminating a professionally trained manager as head of the executive or administrative branch of government remains to be seen. Although the charter provides for the position of county administrator, that person serves at the will of the chairman. Hopefully, the chairman will balance political decisions with sound managerial practices. In any event, in the view of the charter review commission, the potential for "politics" entering into the managerial "policy" arena was apparently outweighed by the desire for a single, strong elected official to act as head of the county.

One alternative not contemplated in section 125.84, Fla. Stat., is the "weak mayor" form. Under this model, which is used in some counties in Virginia and in many cities, the professional administrator is appointed and dismissed by the council or commission. The mayor chairs the commission meetings and acts as ceremonial head of the government, but does not have veto authority or direct control over staff. The mayor is able to build and exercise political clout when this form is used in conjunction with a system of single-member districts for the balance of the commission. Dade County

has this structure, except that all commissioners are elected countywide and from the same political base as the mayor—thereby reducing the mayor's ability to act as chief spokesman for the county.

One notable area still left untouched by the charter is that of the constitutional officers. Although the county will soon have an elected chief executive officer, in reality it will still have a multi-headed executive branch in which many authorities and responsibilities are shared with several other offices. For example, responsibility for finance policy will remain under the elected comptroller's position. One of the county's largest areas of expenditures—law enforcement—will remain under the sheriff, who can still appeal his commission-approved budget to a separate body (the cabinet) if he opines that it is not adequate. Many options that would create a more unified executive branch are available to future review commissions and the local electorate. For example, Dade County has adopted a system in which such functions are performed by appointed department heads. Short of that, the Volusia County Charter provides that the duties previously performed by elected constitutional officers are now performed by elected charter officers, thereby gaining control of the departments in the budget process. The charter could also mandate unified administrative systems such as personnel, data processing, finance/accounting, etc., but leave the constitutional officers' positions untouched.

CONCLUSION

While it is true that any offense can work as long as you have the right players, the changes adopted by the Orange County electorate attempt to ensure that the structure of the county will be better suited to address the problems the county will face in the future. The form of government chosen in Orange County and the county's experience in implementing it will be closely scrutinized over the next several

years. Whether it is a step in the right direction—and whether it goes too far or not far enough—will be the subject of much debate. Such debate will be healthy for those counties looking at alternatives in the future. Now that one community has opted for an alternative to the historical structure, it will certainly be examined much more closely in the other large jurisdictions in Florida over the next few years. ♦

ENDNOTES

¹ The question of consolidation is a separate issue that could occur under either form, and was not on the ballot for the Orange County voters to consider.

² In addition to the elected positions of property appraiser, tax collector, sheriff and supervisor of elections, the office of clerk of the circuit court had previously been divided into two positions by special act. The clerk's office retained its responsibilities related to the

judicial system; however, that office's duties to the board of county commissioners for such functions as finance, custodian of funds, recorder, etc., were transferred to an elected comptroller. Orange and Escambia are the only counties in Florida that have six (instead of five) separately elected independent county offices, in addition to the county commission. In most counties, about 65 percent of the jurisdiction's annual budget is allocated to such offices.

³ Section 125.84, Fla. Stat., provides for three alternate forms of government when a charter question is placed on the ballot directly by the county commission. Under the county chairman/administrator form as described in section 125.84(3), Fla. Stat., the chairman votes only in case of a tie. Since the Orange County amendments were placed on the ballot by a charter review commission and not the county commission, the restrictions found in section 125.84 were not applicable, although this point has not been litigated.