Charter Government
Comparative Practices

Kurt Spitzer
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Pinellas County Charter Review Commission

European Origin of
County Structure

- France, Germany – Divide country into subdivisions known as “Counts”
- England (9th 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

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.
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

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**

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>Adopted</th>
<th>Population</th>
<th># Cities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alachua</td>
<td>1987</td>
<td>228,607</td>
<td>9</td>
</tr>
<tr>
<td>Brevard</td>
<td>1994</td>
<td>494,102</td>
<td>15</td>
</tr>
<tr>
<td>Broward</td>
<td>1975</td>
<td>1,669,153</td>
<td>30</td>
</tr>
<tr>
<td>Charlotte</td>
<td>1986</td>
<td>148,521</td>
<td>1</td>
</tr>
<tr>
<td>Clay</td>
<td>1991</td>
<td>149,901</td>
<td>4</td>
</tr>
<tr>
<td>Columbia</td>
<td>2002</td>
<td>58,372</td>
<td>2</td>
</tr>
<tr>
<td>Duval</td>
<td>1968</td>
<td>809,394</td>
<td>5</td>
</tr>
<tr>
<td>Hillsborough</td>
<td>1983</td>
<td>1,055,617</td>
<td>3</td>
</tr>
<tr>
<td>Lee</td>
<td>1996</td>
<td>475,073</td>
<td>5</td>
</tr>
<tr>
<td>Leon</td>
<td>2002</td>
<td>248,039</td>
<td>1</td>
</tr>
</tbody>
</table>
Electorate in 20 of 67 Counties Have Adopted Charters

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

* 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 affected 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

### Practices

<table>
<thead>
<tr>
<th>County</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broward</td>
<td>9 single-member</td>
</tr>
<tr>
<td>Duval</td>
<td>14 single, 5 at-large; elected executive</td>
</tr>
<tr>
<td>Hills.</td>
<td>4 single, 3 at-large (no residency)</td>
</tr>
<tr>
<td>Dade</td>
<td>13 single; elected executive</td>
</tr>
<tr>
<td>Orange</td>
<td>6 single; elected Mayor</td>
</tr>
<tr>
<td>Palm Beach</td>
<td>7 single</td>
</tr>
<tr>
<td>Volusia</td>
<td>5 single, 2 at-large (one elected Chair)</td>
</tr>
</tbody>
</table>
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

#### 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

<table>
<thead>
<tr>
<th>Office</th>
<th>Budget/Fee?</th>
<th>Primarily Serves</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clerk (BCC)</td>
<td>Budget</td>
<td>BCC</td>
</tr>
<tr>
<td>Appraiser</td>
<td>Fee</td>
<td>County, cities, schools, state (i.e. school funding)</td>
</tr>
<tr>
<td>Sheriff</td>
<td>Budget</td>
<td>Countywide citizenry</td>
</tr>
<tr>
<td>Supervisor</td>
<td>Budget</td>
<td>County, state, schools, districts</td>
</tr>
<tr>
<td>Collector</td>
<td>Fee</td>
<td>County, state, cities, schools, districts</td>
</tr>
</tbody>
</table>
County Officers

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

- 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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