Municipal Research and Services Center of Washington

Working Together for Excellence in Local Government

County Governance Structure: Across the Country and in Washington State

Appendix C of the County Financial Health and Governance Alternatives 2007 Legislative Study

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CONTENTS

Introduction **C-3**

Study Questions
Study Background
MRSC Role

Washington County Governance Forms **C-6**

Charter Counties
Noncharter Counties

County Governance Alternatives – Pros and Cons **C-11**

Commission Form
Commission/Council-Appointed Administrator Form
Commission/Council-Elected Executive Form
Reform Variations

Implementation Approaches **C-20**

Overview of Charter Reform Efforts
Constitutional Changes
Legislative Options for County Reform
Existing Tools

Summary and Conclusions **C-34**

References **C-36**

Appendices **C-39**

A. Bill Analysis – HJR 4211 .... C-39
B. Bill Analysis – HJR 4212 .... C-42
C. Washington State Constitution, Article XI, "County, City and Township Organization," Sections 1-5 and 16 .... C-45
D. Chronology of County Home Rule Efforts in Washington – 1947-2007 .... C-51
E. Selected Statutes - County Officials C-54

Introduction

The 2007 legislature directed the Department of Community, Trade and Economic Development (CTED) to present a study of county financial health and governance alternatives to the governor and legislature by December 1, 2007. The study request emerged as a result of legislative debate over increases in state funding to counties. The legislature recognized that counties have limited revenue options and fiscal capacity. Annexations and incorporations resulting from the Growth Management Act and citizen initiatives have further constrained counties over the last two decades. Counties in Washington also have limited organizational structure options compared with other states and with Washington cities. The legislature was concerned that these limitations may lead to inefficiencies. The state has an interest in assuring that any increased state funding goes to those jurisdictions that need it the most, and that all counties have an opportunity to organize in a manner that is the most effective and cost efficient for their local circumstances.

Study Questions

Based on legislative direction, the following "Study Questions" were developed:

- What factors contribute to county fiscal health?

- Which Washington counties are the most fiscally distressed?

- What potential efficiencies, cost savings, and/or improved level of service opportunities may be gained by authorizing noncharter counties greater flexibility in altering their forms of governance, including consolidating or merging constitutional or statutory functions of structures within or among counties?

- What changes to constitutional or statutory law would provide counties with the legal authority necessary to implement changes in governmental structures or functions needed to optimize efficiency and/or improve service?

Study Background

This study grew out of legislative discussion of two bills under consideration during the 2007 legislative session: HJR 4211 and HJR 4212. Neither bill passed. The two bills are briefly summarized below.

- **HJR 4211 - Authorizing consolidation or merging of statutory and constitutional county functions and structures.** This bill would create a ballot initiative for consideration by the voters at the next general election. It proposes the amendment of XI, Section 3, of the Washington State Constitution [Appendix C] to allow two or more counties to "consolidate or merge any statutory or constitutional function or structure, in a manner as prescribed by law" to promote "efficiency, cost savings, and improved

service. The broad language of the proposed amendment would remove any constitutional restrictions on counties sharing the entire range of county functions, including governance, law enforcement, road maintenance, administration of public utilities, finance, and public health, but it would stop short of actually allowing the formal merger of two or more counties into a single county. Furthermore, the amendment would authorize counties to share elected officials and their respective departments, including county commissioners, sheriffs, county clerks, treasurers, and prosecuting attorneys. This bill passed out of the House Committee for Local Government but did not make it to the floor of the full House.

- **HJR 4212 - Authorizing additional governance options for counties.** This bill proposes a constitutional amendment that would authorize the citizens of a noncharter county to choose an optional form of government for their county through a ballot proposition. This would be initiated either by voter petition or by the county legislative authority. Voters would be authorized to choose either an elected executive/council plan of government or a council/manager plan of government. Either plan of government may allow for the creation of additional county officials and/or the elimination of county offices otherwise required by the state constitution. The bill would also allow adjacent noncharter counties to share a single official to act on behalf of both counties, with the exception of the members of the county legislative authority, superior court judges, and inferior court judges. This bill did not move out of the House Committee on Local Government.

The full provisions of this proposed legislation and bill analyses of HJR 4211 and HJR 4212 are attached as Appendices A and B. The legislature's decision to undertake this study reflects a desire for additional information prior to considering legislation affecting county structure.

MRSC Role

During this phase of the study, the Municipal Research & Services Center's (MRSC) role was to survey national and state literature and studies that address the structure of county government. The purpose of this search was to identify options that could be considered within the framework of Washington State, e.g., local governments that operate according to the "Dillon Rule," counties that provide services comparable to those provided by Washington counties, and other factors that may be determined relevant after review of such studies. MRSC was then to prepare a preliminary assessment (pros and cons) of options that would include but not necessarily be limited to:

- A board of county commissioner plan similar to the plan currently used by 34 counties in Washington State;

- An elected executive/council plan of government;

- A council/manager plan of government wherein the council members appoint the county manager;

- Options to combine elected offices that might be available under the Washington Constitution and statutory framework; and

- Other alternatives identified through a national literature search.

Alternative plans of government may provide for other county elected officials, but may not affect the election, powers, or duties of the prosecuting attorney, superior court judges, or inferior court judges.

Based on the 2001 National Association of County Officials (NACO) study (*County Government Structure: A State to State Report*), MRSC selected several states for further examination. States with a mix of county services dissimilar to those of Washington were ruled out. Only "Dillon Rule[1]" states were included. Most of the states with optional forms were examined. The MRSC legal staff gathered constitutional provisions and statutory material from Arkansas, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Maryland, Minnesota, New York, North Carolina, North Dakota, Utah, Virginia, and Wisconsin. Some of this material could provide useful sample language on implementation details for later stages of this study.

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[1]Most states (all but 10) are "Dillon Rule" states. Judge John F. Dillon's 1886 Iowa Supreme Court ruling limited county (and city) governmental powers. He distrusted local government due to power and corruption of political "machines" who often controlled municipal and regional decision makers. His opinion states:

> It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: first, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation – not simply convenient but indispensable. Any fair, reasonable, substantial doubt concerning the existence of power is resolved by the courts against the corporation, and the power is denied.

His ruling gave local governments only those powers that were specifically given to them by state constitution or legislative statute. (NACO, Research Brief, Dillon's Rule or Not, 2004.)

Washington County Governance Forms

Counties were the first form of local government during Washington's pre-statehood, territorial days. The state constitution, adopted in 1887, formally recognized the counties that had been created by the territorial legislature. By 1889, when Washington was admitted to the union and became a state, there were 34 counties. With the addition of five more, the division of the state into counties was completed by 1911, bringing the state to its current total of 39 counties.

Historically, the role of counties has been to serve as an administrative arm of the state - maintaining records, providing courts and law enforcement, building roads, assessing property and collecting taxes, and conducting elections. Counties still perform these functions, as well as a growing list of other functions, under the supervision of various elected officials including the following:

- Board of County Commissioners (or County Council members in most charter counties)
- Executive (in most charter counties)
- Sheriff
- Judges
- Assessor
- Treasurer
- Prosecutor
- Auditor
- Superior Court Clerk
- Coroner or Medical Examiner.

Today, Washington's 39 counties range in population from 1,800,000 in King County to 2,350 in Garfield County.

Of the 39 counties, 33 "noncharter" counties operate under the commission form of government provided by state law. Six counties have adopted "home rule" charters as provided for in a state constitutional amendment and legislation adopted in 1948. Adoption of a home rule charter allows a county to choose a different form of government from the commission form specified by statute.

Charter Counties

It was not until 1969 (21 years after receiving this authority) that the first county home rule charter was adopted by King County. Since that time only five other counties have successfully adopted home rule charters: Whatcom (1978); Clallam (1979); Snohomish (1980); Pierce (1981); and San Juan (2005). Several other counties, including Kitsap, Island, Thurston, Cowlitz, Ferry, Skamania, and Clark counties, have tried and failed to adopt home rule charters.

The number of charter counties is small relative to all counties. However, they include three of the most populous counties in the state; their combined population accounts for nearly 54 percent of the state's total population.

Of the six home rule charter counties, five have adopted the council-executive or council-administrator forms of government (King, Whatcom, Snohomish, Pierce and San Juan) and one (Clallam) has a commission-administrator form. As specified in the constitution, in each case a board of freeholders was elected, and the result of their work was adopted by a vote of the citizens.

Washington County Forms of Government, Elected and Appointed Officials Summary

County	Year	Form	Elected Officials	Appointed Officials
King	1969	Council-Elected Executive	Nine-member Council (P) County Executive (P) Assessor (P) Prosecuting Attorney (P) Sheriff (NP)	Auditor County Administrative Officer Treasury Operations Manager Clerk Medical Examiner
Whatcom	1978	Council-Elected Executive	Seven-member Council (NP) County Executive (NP) Assessor (NP) Prosecuting Attorney (P) Auditor (NP) Sheriff (NP) Treasurer (NP)	Clerk Deputy Administrator Medical Examiner
Clallam	1979	Commission-Appointed Administrator	Three-member Commission (P) Assessor (NP) Prosecuting Attorney/Coroner (P) Auditor (NP) Sheriff (NP) Treasurer (NP) Community Development Director (NP)	County Administrator Clerk
Snohomish	1980	Council-Elected Executive	Five-member Council (P) County Executive (P) Prosecuting Attorney (P) Assessor (NP) Auditor (NP) Sheriff (NP) Clerk (NP) Treasurer (NP)	Medical Examiner
Pierce	1981	Council-Elected Executive	Seven-member Council (P) County Executive (P) Prosecuting Attorney (P) Sheriff (P) Assessor-Treasurer (P) Auditor (P)	Clerk Medical Examiner

San Juan	2005	Council-Appointed Administrator	Six-member Council (NP) Prosecuting Attorney/Coroner (NP) Assessor (NP) Auditor NP) Clerk (NP) Sheriff (NP) Treasurer (NP)	County Administrator

(P = Partisan; NP = Nonpartisan)

The county executive is an elected position in King, Pierce, Snohomish, and Whatcom counties. The county administrators in San Juan and Clallam counties are both appointed.

All but one of the charter counties have increased the size of their legislative bodies. In the five council-executive charter counties, the size of the council ranges from five members in Snohomish County to nine in King County. The council's primary duty is to adopt a budget and establish county policy. The county executive or administrator is responsible for general administration and operation of the county. The executive or administrator is also responsible for proposing the budget and, in the case of an elected county executive, has veto power over most council actions. Clallam County is the only charter county that has retained the three-member commission form of government with responsibilities similar to the boards of commissioners in the 33 noncharter counties.

Partisanship is mixed in the charter counties. The members of the legislative bodies in King, Pierce, Snohomish, and Clallam counties are elected on a partisan basis, while the council positions in Whatcom and San Juan Counties are elected on a nonpartisan basis. The county executives in King, Pierce, and Snohomish counties are elected on a partisan basis, while the Whatcom County Executive is elected on a nonpartisan basis. Most of the other independently elected officials are nonpartisan, except for those in King and Pierce counties.

A county charter can make any elected county official, except the prosecuting attorney and superior court judges, an appointive rather than an elective position. Most of the charter counties have done so only selectively. The office of county clerk has been made an appointive position in four of the six charter counties (King, Whatcom, Clallam and Pierce). The office of medical examiner has also been made an appointive position in four of the six charter counties (King, Whatcom, Snohomish and Pierce). Most other county officials, with a few exceptions, remain as elective positions. The assessor is an elected position in every county, although some make the position nonpartisan. The auditor is an elected officer in all but one county (King), where the auditor is appointed by the council. The sheriff is an elected position in all of the charter counties, although one county (Pierce) has made the position nonpartisan. After having an appointed sheriff for over 25 years in Pierce County, the voters decided in 2006 to change back to electing their sheriff. Finally, the treasurer continues to be an elected position in all but one county (King). Pierce County has combined the assessor and treasurer into a single elected position.

Noncharter Counties

The form of government provided in state law for the remaining 33 noncharter counties is the commission form. All noncharter counties are required to operate under this form of government. There are some population-based differences in the state laws governing noncharter counties, but the basic elements of the commission form of government are otherwise the same for all of them.

Under the commission form, the county governing body consists of a three-member board of commissioners, elected on a partisan basis, which serves as the legislative body and also performs executive functions. No single administrator or executive oversees a county's operations under the commission form of government. While the county commissioners establish the budget and act as the county legislative body, they share administrative functions with several other independently-elected county officials, including a prosecuting attorney, clerk, treasurer, sheriff, assessor, coroner, and auditor (or recorder). Other independently-elected county officials and court officers include the county prosecuting attorney and the judges of the superior court.

The independent role of the other county elected officers makes county government quite different from city government, where the number of elected officials is far fewer, being limited usually to a mayor and city councilmembers. Historically, the so-called "weak-mayor" form of city government in which an elected mayor was required to share control over administrative departments with several other elected officials, more closely resembled the county commission form.

In county government, multiple offices are intended to provide a system of checks and balances. For example, the checks and balances that exist among the assessor's office, the treasurer's office, and the auditor's office are intended to divide the responsibility of handling multi-million dollar tax funds. The county collects taxes for the cities, the school districts, the highway districts, mosquito abatement districts, irrigation districts, drainage districts, and other functions involved in county government. The county collects those taxes according to an assessment made by the assessor and certified by the county treasurer. The county treasurer then verifies those figures and certifies the figure for the county auditor who then attaches a levy that is proposed by the commissioners in support from the budget officer for the county, and that money is then certified back to the county treasurer to be collected and disbursed to all the taxing districts.

Although there is no constitutional or statutory requirement for county commissioners to delegate any of their executive authority to a separately-appointed administrator, it appears that many of them have, to a limited degree, chosen to do so under their general law authority (see RCW 36.16.070). There is no apparent uniformity to the job titles given to such positions, nor with respect to their duties and responsibilities. Nevertheless, there appears to have been a conscious action taken by the board of commissioners in many noncharter counties to delegate some degree of their administrative authority to a separately-appointed administrative-type position. The appointment of administrative positions to assist the county commissioners with their executive duties mirrors a trend found in many city governments, particularly in the mayor-council form of city government, where city administrator or administrative assistant-type positions have been created to assist mayors with their executive duties. Further study will be

required to learn more about the roles being played by commission-appointed administrative officials in county governments.

Additional information on the governance of counties is available on the MRSC website at: *http://www.mrsc.org/Subjects/Governance/locgov12.aspx*

County Governance Alternatives – Pros and Cons

From 1911, when California became the first state to authorize the adoption of county "home rule" charters, to today, 37 states have approved some method for counties to change their form of government, either through the local drafting and adoption of a home rule charter or through the selection of certain predefined "optional" forms of government. Twenty-seven states (including Washington) provide for the adoption of home rule charters. Thirteen states (not including Washington) provide for the selection of predefined optional forms of county government. Three states (Idaho, Iowa, and Minnesota) offer both.

The review of county governance alternatives that have evolved in the United States finds that the most prevalent forms are the commission form, council/commission-appointed administrator form, and the council/commission-elected executive form. There are many variations that differ in their details, but these are the three most basic forms. Variations commonly address issues such as the number of independently elected officials, elected versus appointed officers, partisan versus nonpartisan officials, the size of the legislative body, and other similar issues.

Nationally, according to the *2006 Municipal Yearbook* published by the International City/County Management Association, of the 3,040 counties in the U.S., 2,189 operate under the commission form, 372 operate under the "council-manager/administrator" form, and 479 operate under the "council-elected executive" form.

Twenty-eight states provide direct constitutional or statutory authority for county governments to appoint county managers or administrators, with several of them providing this option as part of a menu of predefined optional forms of county government that include council-manager, council-administrator or other similar optional forms. County governments in eight states (including Washington State) that do not provide such direct constitutional or statutory authority, have created county administrator positions on the basis of general law authority such as the power to create "other" county offices and positions as deemed necessary by the county legislative body. (*County Government Structure: A State to State Report*, National Association of Counties, 2001)

The following sections review the most common arguments, pro and con, regarding the major alternative forms of county government, plus a few of the most common variations on these forms.

Commission Form

Being the oldest form of county government, the commission form, not surprisingly, has both many supporters and detractors. Supporters argue that the form's longevity is evidence of its adaptability and effectiveness. Detractors say that the persistence of the commission form in county government owes more to the effects of inertia and the ability of incumbent officials to thwart reform efforts.

Pros of Commission Form

Proponents of the commission form of government argue:

- The commission form is the traditional structure of county government that is most familiar to Americans.

- The commission plan brings government administration close to the people through the independent election of government department heads; therefore, it is the most democratic form of government.

- The independent election of multiple officials provides a broad system of checks and balances greatly reducing opportunities for government corruption.

- The combination of legislative and executive authority in the board of commissioners promotes unified policy-making and administration and helps to avoid the types of conflicts that characterize other forms.

- This form of government is more responsive to citizens because commissioners have the executive and administrative powers to implement the laws they enact.

Cons of Commission Form

Opponents of the commission form argue:

- The commission form, which predates the American Revolution, is antiquated and cannot, therefore, effectively address complex contemporary needs.

- The lack of a centralized executive authority and the existence of multiple independently-elected officials interferes with administrative coordination and results in inefficient and ineffective service delivery.

- The commission plan lacks accountability since responsibility for executive functions is so diffused.

- The increased complexity of county government makes administration by the citizen legislator (commissioner) no longer feasible. The commission plan lacks professionalism.

- It is nearly impossible for citizens to know the myriad, functional officials they are electing. Many independently-elected officials are often elected term after term without opposition. This concentrates the selection of officers in the hands of political parties and special interest groups.

(Note: These "arguments" have been collected from a variety of sources and do not necessarily reflect the opinions of MRSC or MRSC staff.)

Commission/Council-Appointed Administrator Form

In this form, an elected body, be it a county commission or council, continues to have the policy-making, legislative, and budget-adoption functions. However, that body delegates (either voluntarily or as required by statutory or constitutional mandates) all or a portion of its administrative authority to a professional administrator with the specific intent of enhancing administrative coordination and control functions. By title, such positions may be designated either as county administrator, county manager, chief administrative officer, administrative assistant, assistant to the county board chairman, or some other similar title. The most significant difference among the various council/commission-appointed administrator forms stems from the degree of administrative authority and specific duties delegated to the administrator.

How do adoptions of commission/council-appointed administrator forms affect the status of independently-elected officials? Nationally, among those states that authorize optional forms of county government by statute, the pattern is mixed. In some states (e.g., Idaho, Iowa, Montana, and North Dakota), the statutory optional forms provide for a change in the status of several county offices from elected to appointed positions, while in other states (e.g., Massachusetts, North Carolina, and Utah) the numbers of independently elected officials appears to remain the same regardless of whether there is a change in the underlying form of government. Under the constitutional amendment proposed in HJR 4212, the optional forms of government would have allowed for the creation of additional county officials and/or the elimination of county offices otherwise required by the state constitution.

This form has three basic variations that may be generally be classified as commission/council-manager, commission/council-chief administrative officer (CAO), and commission/council-administrative assistant:

- **Commission/Council-Manager.** The county manager has the most extensive powers of the three types of administrator positions. The manager is appointed by the county commission/council as principal administrative officer and serves at their pleasure. The council/commission retains its legislative functions, such as enacting ordinances, setting tax rates, appropriating funds, and exercising general oversight of administration. The commission/council defines the functions of the appointed position and then delegates specific duties. (In states that allow selection from among predefined optional forms, these duties are usually clearly set forth in statute.) The county manager appoints all or most of the department heads and is responsible to the council/commission for administration of county programs. The manager prepares a budget for submission to the council/commission, prepares ordinances and reports at their request, and generally serves as staff to the council/commission. Nationally, manager counties currently vary in size from more than a million in population to less than a thousand. San Juan County is the only Washington county operating under this form.

- **Commission/Council-Chief Administrative Officer (CAO).** The chief administrative officer (CAO) has some but not all of the authority of a county manager. He or she is appointed by the commission/council and generally has responsibility for preparing and submitting the budget. Serving the council/commission as the chief-of-staff, the CAO

drafts ordinances, prepares reports, and coordinates county programs under their direction. The CAO directly supervises staff services, such as budgeting, purchasing, personnel, management analyses, and data processing. However, the CAO does not directly supervise most county departments nor appoint most department directors. The county council/commission retains authority to appoint department directors but gives the CAO power to coordinate county departments.

- **Commission/Council-Administrative Assistant.** In this variation, an administrative assistant is appointed by the county council/commission, serves at its pleasure, and has many but not all of the powers of a CAO. It is generally the weakest version of the county administrator forms. Typically an administrative assistant prepares drafts of ordinances and reports and follows up on administrative action of the board. The administrative assistant usually does not appoint or supervise department directors but may be responsible for budget preparation.

Pros of Commission/Council-Appointed Administrator Form

Note that the arguments that follow pertain mostly to the commission/council-manager form in which the manager exercises the greatest degree of executive authority Proponents of the commission/council-appointed administrator form argue:

- The separation of policy-making and administration removes political influence over administrative matters.

- Since managers are appointed rather than elected, greater attention can be given to selecting a qualified manager.

- The pool of qualified candidates is larger since county managers are usually paid better than commissioners/council members and candidates may be recruited from outside the county, including a nationwide search. (Elected officials must be a resident of the county prior to their election.)

- An appointed administrator usually brings professional training, skills, and credentials which may result in professional, administrative leadership.

- Since managers are appointed not elected, they are less likely to have political obligations affecting the quality of their administration.

- The commission/council can concentrate more of its efforts on policy development while the administrator handles the day-to-day business of county government.

- Since the manager serves at the pleasure of the commission/council without a definite term, he/she can be removed at any time should he or she fail to carry out the duties of the position or meet performance expectations, limiting the danger of an abuse of authority.

- Greater control over performance and expenditure is possible under the supervision of the administrator.

Cons of Commission/Council-Appointed Administrator Form

Note that the arguments that follow pertain mostly to the commission/council-manager form in which the manager exercises the greatest degree of executive authority Opponents of commission/council-appointed administrator form argue:

- This form gives too much power to one person – the administrator.

- An appointed administrator, often chosen from outside the county, may not know the community.

- Commissions/councils may leave too much decision-making to the appointed administrator, who is not directly accountable to the public.

- Citizens may be confused about who is in charge. Most expect elected officials to respond to their problems.

- Appointed administrators have a tendency to leave when offered higher salaries and greater responsibilities in other local governments.

- An appointed administrator is dependent upon the strength and cooperative spirit of the county board and may find it difficult to take effective action when the county board is split.

- An appointed administrator may find it difficult to provide policy leadership on important issues facing the county. If the administrator takes a passive role, inaction may result. If the administrator becomes an agent to shape public opinion behind an issue, he or she is vulnerable if the board takes a different stand.

(Note: These "arguments" have been collected from a variety of sources and do not necessarily reflect the opinions of MRSC or MRSC staff.)

Commission/Council-Elected Executive Form

In the commission/council-elected executive form, the county executive is elected by the voters and serves as the head of the executive branch of government. The county board (or council) is the legislative branch of government, and it enacts ordinances, adopts the budget, and exercises oversight of the administration. Its role is similar to the role of a city council in a mayor-council city. The county executive has the power to veto legislation; however, a veto can be overridden by the council with a two-thirds majority vote or greater. The county executive proposes policy to the council, executes policy adopted by the council, prepares a budget, and has responsibility for general administration of the county. The county executive appoints and may dismiss

department heads, generally with the consent of the council. The county executive's role is similar to the role of a mayor in a mayor-council city. Voters may elect a few other county officers but generally less than under the traditional commission form.

Washington State has four counties that use this form of county organization: King, Pierce, Snohomish, and Whatcom. Voters in these four counties enacted the council-elected executive form by adopting "home rule" charters. Except for Whatcom County, county executives are elected on a partisan basis.

Pros of Commission/Council-Elected Executive Form

Proponents of the commission/council-elected executive form argue:

- This form resembles the mayor-council form and is familiar to most people because it is patterned after our traditional national and state governments. There is a separation of powers and checks and balances between the executive and legislative branches.
- An executive elected at-large (especially in urban counties) provides the political leadership needed for relating to diverse segments of the community.
- An elected executive is less likely to resign during a period of crisis or change than an administrator who serves at the pleasure of the council.
- By electing rather than appointing a chief executive, political leadership is established. The county has a political spokesperson who has a high degree of visibility.
- An elected executive is directly accountable to the public in the next election.
- An elected executive will have a higher standing and greater voice in regional affairs than an appointed administrator.
- An elected executive is vested with the veto power, and can serve as a check on an unpopular council decision.
- An appointed administrator may be necessary to minimize weaknesses in the executive's management background or experience, but the executive is still fully responsible and accountable.

Cons of Commission/Council-Elected Executive Form

Opponents of the commission/council-elected executive form argue:

- The office of the county executive gives too much power and authority to one person – the executive.

- It permits an incumbent to make decisions based largely on political considerations and to use the office to further personal political objectives.
- The qualities needed to win an election are not the same qualities needed to manage a complex modern county. A county executive, while politically astute, may not always possess the necessary management training and experience.
- If an elected executive proves to be incompetent or worse, he/she cannot be removed until the end of their term or after an expensive and divisive recall election.
- A separately-elected executive may resist requests from the council. The executive may attempt to isolate the council by controlling staff, information, and reports.

(*Note: These "arguments" have been collected from a variety of sources and do not necessarily reflect the opinions of MRSC or MRSC staff.)

Reform Variations

County government reform measures often include alterations to various other aspects of the traditional county commission form of government, including increasing the size of the legislative body, reducing the number of partisan-elected positions, and reducing the number of elected versus appointed county officials.

Increasing the Size of the Legislative Body

Legislation was enacted in 1990 (RCW 36.32.055) allowing any county with a population of 300,000 or more the option of increasing the size of the board of county commissioners from three to five. The only noncharter counties that meet this size threshold are Spokane and Clark counties. Neither county has used this option, which, according to the attorney general's office, likely violates Article XI, Sections 4 and 5 of the state constitution [Appendix C] (AGO 1987 No. 11; AGLO 1979 No. 8).

Except for Clallam County, all of the charter counties (King, Pierce, San Juan, Snohomish, and Whatcom) have opted for larger councils. Those who favor increasing the size of the legislative body generally argue that a larger number of councilmembers will be “more” representative, particularly in the more populated urban counties. Each councilmember represents a smaller number of voters, and will therefore be more accessible to them.

There is a practical advantage to having a larger legislative body operating under Washington State’s Open Meetings Law. Since two commissioners constitute a quorum in a traditional three-member commission, a discussion of county business by any two commissioners actually qualifies as a "meeting" which must be open to the public. The law thus presents special challenges to the members of three-member boards who are restricted in their ability to meet and confer on policy issues with other commission members except within the context of a public meeting. The members of a larger legislative body, while still subject to the requirements of the

Open Meetings Law, have more flexibility in holding informal policy discussions among their members representing less than a quorum of the body.

Reducing the Number of Partisan versus Nonpartisan Elected Offices

All county elective offices in noncharter counties, other than judicial offices, are partisan offices (RCW 29A.04.110(3)). Voters in several charter counties have chosen to make some or all of their elected officers nonpartisan (Clallam, San Juan, Snohomish, and Whatcom). Those that are nonpartisan have achieved that status by voting to adopt a charter that specifies this.

There is a saying that "There's no Democrat or Republican method of paving a public street." Arguably, the same would apply to assessing property for tax purposes, for administering elections, for installing water or sewer pipe, for building a bridge, or any other function, provided that the specific function is done according to statute, or to be accomplished objectively for the lowest and best price.

The supporters of partisan-based elections in county government point to the long-standing tradition of partisan-based elections at both the national and state levels. Supporters argue that parties provide a critical linkage between citizens and the political process, and that competition between the parties provides the most effective mechanism for ensuring the accountability of leaders.

MRSC is not aware of any study that would demonstrate that one or the other approach is more efficient or cost-effective.

Reducing the Number of Independently Elected Officers

Some of the counties in Washington that have adopted charters providing for the elected county executive or appointed administrator forms of government have also transferred some of the functions of their elected officials to an equivalent or smaller number of appointed positions. In some of the states where optional county government forms (e.g., county-manager or county-administrator forms) are authorized, similar transfers from elected to appointed positions also occur.

The stated goal of this reform is usually couched in terms of increased administrative unity and coordination. Proponents argue that having five or more independently elected officials in addition to the board of commissioners carries the principle of checks and balances to an unworkable extreme that interferes with efficient administrative coordination. Supporters of the traditional commission form of county government counter by asserting that the presence of multiple elected county officials provides for a separation of powers and an effective system of checks and balances.

Proponents and opponents of this reform measure also differ on the best way to select county department heads. Those who argue for fewer elected officials insist that the best way to insure competency is by appointing rather than electing officials noting that the qualities that get one

elected may not necessarily be the same as those that insure technical competency to perform the job. Opponents argue that the voters are capable of selecting competent officials.

Another debate revolves around the relative ease of removing undesirable or incompetent officials. Those who favor the appointment of department heads argue that it is important for the sake of operational efficiency to be able to quickly remove them in the event they prove to be ineffective or incompetent. While an appointed department head can simply be fired, an elected official can only be removed through an expensive and potentially divisive recall election process. Opponents argue that an effective system of checks and balances requires that county officials not be so vulnerable to outside influence and removal by anyone other than their constituents.

The issues of responsiveness and accountability also enter the debate over the relative merits of elected and appointed officials. Supporters of the traditional county commission form argue that elected officials are more directly accountable to citizens and are therefore more responsive to their needs. Reform proponents argue that responsiveness and accountability are more likely with appointed department heads whose performance can be much more closely monitored by the appointing authority.

MRSC is not aware of any study that objectively bears out either point.

Implementation Approaches

Overview of Charter Reform Efforts

Most state governments now provide some form of home rule for counties; however, most counties have not chosen to implement charters. Counties that adopt home rule charters tend to be populous urban centers that include significant shares of the state's population. About a third of the nation's counties operate under a reformed system, with either a county manager or an elected chief executive (International City/County Management Association, *The Municipal Yearbook 2006*). Measuring county charter efforts by the number or percentage of counties undertaking charter reforms underestimates the impact of reform, because county reform usually centers on urbanized counties with large populations. For example, the combined population of Washington's six charter counties includes nearly 54 percent of the state's population. Only 13 of California's 58 counties have charters today; yet these 13 counties include 64 percent of California's population. In Florida, less than a quarter of the counties have charters, but these counties include more than three-quarters of the state's population (Sonenshein and Raphael, The Prospects for County Charter Reform in California, California State University, 2001).

Nationally, the issue of reform is a source of tension between many state and county governments. State officials want local service delivery to be efficient and accountable. County officials complain that they are hamstrung in the delivery of services by state mandates and limited county revenues. State officials want counties to be better run. County officials say they lack the resources and flexibility to run things the way they should be.

Expecting county reorganization to make county government cheaper is likely to lead to frustration. Greater efficiency and responsiveness in the delivery of services do not necessarily reduce the overall budget. Rather, they provide a way to make certain that the services the people want are delivered in the best possible way. Research on the impact of county reorganization on overall budget policy does not show a reduction in the budget as an outcome (Morgan and Kickham, 1999). This is not unexpected, since the impetus for county reorganization is usually a growing public demand for county services.

At the local level, opposition to county charters often derives from various independently elected officials who do not wish their elective offices to become appointed, from labor unions who feel secure with existing arrangements, from incumbent members of the legislative body, and from taxpayer groups.

Support for county charters often comes from civic organizations, from business interests, the newspapers, and from some elected officials.

Constitutional Changes

A number of states have provided either the ability for a county to reorganize its government by adopting a home rule charter, and/or by providing optional forms of government in statute that

may be adopted by going through a statutorily-prescribed election process. A home rule charter adoption process allows counties the greatest degree of flexibility to adopt virtually any form of government that will garner a majority vote of the people in the county.

In spite of the availability of various options for reform, most counties nationally have either not considered them or have tried and found it too difficult to garner the necessary electoral support. The experience in Washington State mirrors that in other states where more charter elections have failed than have passed [See Appendix D for a chronology of county home rule efforts in Washington – 1947-2007]. Washington's statutory and constitutional provisions offer relatively few avenues for structural change, making it difficult to achieve significant reform. The open-ended nature of the charter adoption process that may result in dramatic and sweeping changes in the form of county government virtually guarantees the opposition of officials and various other interest groups that have a stake in the status quo. Potential changes to the constitution that could facilitate the process of county reform include simplifying the process for charter adoption and/or providing optional organizational forms.

Simplifying the Charter Adoption Process

The process prescribed in the state constitution has been criticized by some for being too cumbersome and confusing. It first requires the election of 15 to 25 freeholders, who draft a proposed charter and submit it to the electorate for approval. The initial election on the issue requires voters to decide whether the charter process should go forward and then, at the same election, to choose the freeholders who, depending upon the outcome of the vote, may or may not be drafting a charter.

One option that would greatly simplify the charter process would be to authorize a board of commissioners to initiate it by *appointing* a "charter committee," instead of having the voters elect a board of freeholders. Such a process could also be initiated by a voter petition which, if a sufficient number of signatures were collected, would require the board of commissioners to appoint a charter committee. This procedure would do away with an initial vote on the question of going forward with the charter process. The only question presented to the voters at large would be to approve or disapprove the charter committee's proposed charter.

On the pro side, the appointment of a charter committee by a board of commissioners may be more efficient and less costly than the process required for electing such a group. In addition, a board of commissioners could appoint a balanced charter committee based upon a set of criteria (e.g., residence, party affiliation, and/or expertise) specifically designed to insure that the charter committee is representative. Allowing the charter committee to go forward with the drafting process without an initial vote is both more expedient and focuses voters' attention on a completed charter proposal. This is less confusing than asking them to elect freeholders and decide the entire issue before they actually have a proposal in front of them.

On the con side, an appointment-based process for selecting a charter committee denies voters the ability to choose candidates who express a vision of county government that is similar to their own. An appointment-based process may also open the door for a board of commissioners to "stack the deck" with people who favor a particular outcome. Finally, by doing away with an

initial vote on the merits of convening a board of freeholders, there is a risk that the effort of drafting a charter may be for naught if there is insufficient support for a change in the form of government to begin with.

No studies were found that conclusively demonstrate whether it is better to have elected or appointed groups study charter proposals and make recommendations to the voters. In some instances, elected groups have recommended unpalatable proposals. Subsequently the use of an appointed group in these same counties led to proposals that were ultimately adopted by the voters. In at least one state, New Jersey, elected charter groups have produced significant county reform. Appointed groups predominate in some states (Sonenshein, p. 48). In either case, the voters will still have the final say on their form of government.

Provide Optional Organizational Forms

A second option would be to amend the constitution to give the citizens of a noncharter county a choice among two or more predefined optional forms of county government through an election process that may be initiated either by voter petition or by action of the county legislative authority. Essentially, this is what was proposed by HJR 4212. This simplified process would allow voters to choose between alternative forms that are detailed and described in statute. The most common optional county forms found in other states are the council/elected executive and council/appointed manager forms of government. By statute, city voters in Washington currently have the option of choosing between the mayor-council and the council-manager forms of government without having to going through a charter process. Washington's counties do not currently have this option available.

On the pro side, having the ability to vote on predefined options has the advantage of focusing debate on forms of government that have been tried and tested in Washington and elsewhere. There is a significant amount of information available about how these optional forms work, and their relative advantages and disadvantages. Voting on predefined organizational forms also offers greater predictability in contrast to the open-ended nature of the freeholder process. Having the ability to adopt predefined optional forms of government greatly simplifies the reform process by eliminating the need to start from scratch in designing a new form of government as is required by the freeholder process. The optional forms would be debated and adopted through the legislative process and would therefore reflect a state-wide consensus on the best available forms. Local county voters would still have the final say through an election process.

On the con side, to the extent that the various optional forms are predefined, individual counties lose the ability to tailor them to meet unique local needs and preferences. Removing citizen freeholders from the process might be considered less democratic. Some will also argue that a vote on predefined optional forms makes the process of changing forms of government too easy and that, by design, a process to alter the basic form of county government should be difficult to initiate and complete.

If this option is pursued, there are a number of states that have optional forms described in state law. Here is a short list of states that are worth looking at:

a. Florida – Section 125.84 of the Florida statutes sets out three optional forms of government that can be adopted by charter counties:

   The county executive form provides for an elected county executive;

   The county manager form provides for a county manager, who is appointed by the board of commissioners; and

   The county chair-administrator plan provides for an elected board of commissioners, presided over by an elected chair, and an appointed administrator. The county administrator is appointed by and serves at the pleasure of the chair.

b. Idaho – Title 31 of the Idaho statutes provides for two optional forms: the commission-executive form and the commission-manager form.

c. Illinois – The Illinois statutes describe the specific duties and powers of the optional county executive form (55ILCS 5/Div. 2-5).

d. Minnesota – Under *Minnesota Statutes, Chapter 375A*, counties may choose from the following five forms of organization: elected executive; county manager; at-large chair; county administrator; or county auditor-administrator. The at-large chair and county administrator forms are not mutually exclusive and may be adopted either concurrently or while the other is in effect. Except for the county administrator form, all forms and options require the affirmative vote on a countywide referendum before being adopted.

e. North Carolina – Statute provides for the county-manager form and describes that position's specific duties (North Carolina General Statutes 153A-81 and 153A-82).

f. Utah – Provides for the county executive-council form and council-manager form (Utah code, Sec. 17-52-504, and 17-52-505)

Legislative Options for County Reform

Legislative approaches are simpler to implement than constitutional changes. The legal framework found in Hugh Spitzer's memo, "Questions for County Legislative Study," July 27, 2007, was used as a guide to structure legislative options. In a few cases, options are suggested that were found in the review of county government models in other states.

Strengthen the Role of Commissioners

A board of county commissioners can exercise only those powers conferred upon it by law (Spitzer memo, and *Martin v. Whitman County*, 1 Wash. 533 (1889)). County legislative authorities are granted a number of powers and duties in RCW 36.32.120, but that list is not very long (Appendix E). Other statutes expressly grant additional powers to county commissioners, such as the control of all county agency budgets in Chapter 36.40 RCW, the authority to issue

bonds under Chapter 36.67 RCW, and the control of road and bridge construction under Chapter 36.75 RCW and Chapter 36.77 RCW. County legislative authorities also have a key role in the development of growth management policies under Chapter 36.70A RCW.

The legislature has the power to strengthen the executive functions of the commissioners and could give commissioners powers that enable them to exercise greater control over county policies. County commissioners need specific statutory authority before they can enact and enforce “countywide policies” that require other independently-elected county officials to follow those policies.

Examples of the types of authorities that the legislature might grant to county commissioners to encourage greater efficiency and effectiveness in the delivery of county services includes:

- Authorize budget and revenue forecasting as an executive function whose assignment is made by the commissioners instead of having that function performed by the auditor. County auditors participate in the preparation of budgets, but some tension exists with the county legislative authorities. Legislation was enacted in 1995 that may allow legislative authorities to appoint their own finance officers who assume the duties of auditor relating to the preparation of budgets (RCW 36.40.030 and RCW 36.40.040). (See also *The Closest Governments to the People*, Lundin, p. 47.)

- Create an information technology division and require all county departments, including those headed by independently-elected officials, to use hardware, software, and records management systems sanctioned through that central division.

- Create a centralized fleet management function and require all county departments, including those headed by independently elected officials, to use the centralized fleet.

This study did not conduct a detailed review of current practice, staffing, or operations. Thus MRSC cannot say the extent to which any of the above suggestions are feasible or would result in actual savings. Inclusion of these suggestions shows that the legislature could create stronger executive functions in the commission form, if it wanted to, by adding to the list of powers and authorities listed in statute. While increased authorities for commissioners could result in greater service efficiencies, these measures would be seen as intrusions into the affairs of independently-elected officials.

Classify Counties by Population and Combine Duties of Two or More Elected Officers

Under Article XI, Section 5 of the Washington State Constitution [Appendix C], it is possible to combine the duties of two or more elected officers. The legislature can classify counties and allow for the combination of offices in defined classes. Classifying counties for legislative purposes is not a new concept in Washington. Prior to 1991, there were 11 separate classes of counties based upon population. However, many state and county officials found the system to be too confusing, which eventually led to its elimination. (Lundin, 2007, p. 41).

RCW 36.16.030 provides that the prosecuting attorney serves as the coroner in counties with populations of less than 40,000 (16 counties in 2007). In counties larger than 250,000, the coroner can be replaced by an appointed medical examiner by vote of the people. All five counties with populations greater than 250,000 (King, Pierce, Snohomish, Clark, and Spokane) have made this change.

The county legislative authority in any county with a population less than 5,000 may, by unanimous vote, adopt a resolution combining the offices of county auditor and county clerk (RCW 36.16.032). None of the eligible counties (Columbia, Wahkiakum, and Garfield) has exercised this option. One reason this may not have occurred is that the duties of the clerk relate more to the judicial branch of government. The duties differ enough from those of the auditor that there may not be great savings in merging the staffs of these two functions other than eliminating one department head. .

The legislature has the authority to revise the population thresholds to provide these options to a greater number of counties.

A memo prepared by Hugh Spitzer (July 27, 2007) on legal questions for this study suggests a general framework for combining county offices. Article XI, Sections 4 and 5 of the state constitution [Appendix C] enable the legislature to provide for various county officers in addition to commissioners, sheriffs, county clerks, treasurers, and prosecuting attorneys. Those specified offices must exist, but all other county offices are optional. Next, the legislature may allocate duties to the various offices, and may classify counties by population for the purpose of specifying the merger of certain duties into a single office. Spitzer provides a hypothetical example whereby the legislature could by statute establish the following uniform county offices for noncharter counties:

- Five Commissioners
- County Administrator
- Sheriff
- County Clerk
- Treasurer
- Prosecuting Attorney
- Medical Examiner
- Elections Director
- Registrar
- Assessor

Further, the legislature could classify noncharter counties into three population classes:

- Above 100,000 (Class I)
- 15,000 to 100,000 (Class II)
- Below 15,000 (Class III)

The legislature could then provide, by statute, as follows: Class I counties would have all 14 offices performed by separate individuals (*i.e.*, 14 officers); in Class II counties the

responsibilities of the assessor and treasurer would be combined and the elections director and registrar would be combined (resulting in 12 officers); in Class III counties, the responsibilities of the assessor and treasurer would be combined, the elections director and registrar would be combined, the prosecuting attorney and medical examiner would be combined, only three commissioners would exercise the powers and duties of five commissioner positions and the county administrator's duties would be transferred to the three commissioners (resulting in a total of eight officers). This would provide for "uniform" county government, with the classification of counties and the merger of duties consistent with Article XI, Section 5 [Appendix C]. County offices could be reassigned in many other ways, so long as the classification of counties and the permissible merger of duties were both prescribed by statute.

Several constraints would remain. First, it is probable that the five offices named in Article XI, Section 5 [Appendix C] (commissioners, sheriffs, county clerks, treasurers, and prosecuting attorneys) cannot be abolished by statute, and those offices must be elected. Also, powers must follow the specific office; the courts might hold that the statutorily-assigned powers and duties of an officer may not be *split* between two other officers. Finally, the specified offices and allocation of responsibilities should be uniform among counties of the same class, and classes must be based only on population.

Several specific options are suggested from the MRSC review of county governance in other states:

- **Consolidate non-constitutionally required offices into the commissioners' office**. The constitution appears to require the election of county commissioners, sheriffs, county clerks, treasurers, and prosecuting attorneys. But the election of the assessor, auditor, and coroner are not specified in the constitution and could conceivably be "merged" with the board of commissioners' duties and responsibilities. The board of commissioners in turn would appoint staff to carry out these duties but would retain ultimate accountability to the voters. This could be done by population class, i.e., all counties below a specified size.

  The state of North Dakota has an optional model in statute called the "county consolidated office" form of government that can be submitted to the electorate. If approved by the voters, the county commission takes on all the duties and responsibilities of the other elective county offices, except for the sheriff and the state's attorney (a position that is equivalent to county prosecutors in the state of Washington). Commissioners would appoint staff to carry out the duties previously carried out by elected officers. No county in North Dakota has adopted this model.

- **Combine the duties of the auditor and treasurer.** The basic rationale for this suggestion is that both offices have financial responsibilities. The auditor's duties are defined by statute (Chapter 36.22 RCW, Chapter 36.40 RCW and Title 29A RCW) as are the treasurer's (Chapter 36.29 RCW and Chapter 84.56 RCW). The state legislature has the authority to redefine the duties of these offices and/or to assign them to another elective office. The office of treasurer must exist by the constitution, but not the office of auditor. If this consolidation were to proceed, the combined duties would presumably

reside then in the elected treasurer's office. [Note: In Washington State, when a non-constitutional office is combined with a constitutional office, the constitutional office would remain and assume the duties of both offices.]

The auditor provides a principal support function in the auditing, recording, and control of financial transactions in the county. These functions include preparation of financial reports, and the processing of financial claims against the county. The county auditor usually administers the county payroll. In performance of these duties, the auditor serves *ex officio* as deputy supervisor under the direction of the State Auditor. The auditor is also the *ex officio* supervisor of all primary, general, and special elections for all state, county, and special purpose districts under the direction of the Secretary of State.

The treasurer is the custodian of all funds for the county and its governmental subdivisions, maintaining financial records reflecting the receipt and disbursement of funds in accordance with generally accepted accounting principles. Funds are disbursed on warrants issued by the county auditor and other district authority. The treasurer bills and collects all real and personal property taxes certified on county tax rolls, including foreclosure proceedings against properties for the nonpayment of tax. Funds held in the county treasury are invested for the benefit of the various funds in accordance with statutory guidelines. The treasurer accounts for and pays all bonded indebtedness for the county and its governmental subdivisions. In addition, the treasurer acts as agent for the Department of Revenue in the administration of real estate excise tax and administers all surplus property sales for the county.

Other states such as Minnesota have allowed these two offices to be combined. However, a basic purpose of having these offices be independent is to provide for a system of checks and balances on financial matters. If they were combined, there would need to be systems in place to insure appropriate financial controls and the integrity of public funds.

- **Combine the office of assessor and treasurer.** The office of assessor is a statutory office and not a constitutional one. Legislation was enacted in 1925 eliminating the office of assessor in any county having a population of less than 8,000 and providing for the treasurer to assume these responsibilities. When this law was enacted it applied only to ninth class counties, of which there were none at the time. Several counties lost population but continued to elect both offices. MRSC understands that Benton County did at one time combine these offices but later reestablished them as separate offices, which they remain today. No one else seems to have been aware of the requirement to combine the office of assessor with the treasurer, and this law was repealed in 1991 (Lundin, p. 45).

Require Specified County Officers to Pool Their Staffs and Operations

Another approach would be for the legislature to *require* that two or more counties combine the staff and operations of certain offices. An example given in the Spitzer memo refers to two counties that share a superior court (*e.g.* Benton-Franklin Superior Court). The legislature could

require that there be a single staff of deputy prosecuting attorneys for these counties. In the Benton-Franklin example, there would continue to be two separately-elected prosecuting attorneys, but they would have to work together in supervising a common staff. Prosecutorial decisions would ultimately be made by each prosecutor for his/her county.

The legislature has to use "general law" to specify how counties are governed. Legislation cannot name specific counties, i.e., "special law." Therefore, the legislature would need to use criteria, which when applied, lead to a meaningful result. Where there is already a functional relationship (e.g., shared services), it could make sense to expand on this, as in the Spitzer example. However, it is not clear how population could be used. If, for example, the requirement were to merge specified staff or operational functions of contiguous counties with a population less than 25,000, it would result in the following pairings or clusters: Pacific-Wahkiakum, Klickitat-Skamania, Ferry-Lincoln-Adams, and Columbia-Garfield-Asotin counties. Not all of these clusters may make sense from a functional or service provision perspective. County seats, where staff is concentrated – are far removed from each other. While there may be efficiency advantages, citizens may feel they lose convenient access to their government. Pooling of staff may work best for "back office" functions that have little or no contact with the public.

Historically, bitter fights have arisen over the selection or removal of a county seat. Many people feel that locating a county seat in a community will bring jobs and economic development. This concern would most likely be raised if there are attempts to reduce county staff in the county seat of a county that participates in any of the pooled or regional options.

The board of county commissioners must hold regular meetings at the county seat (RCW 36.32.080). The sheriff (RCW 36.28.160), the prosecuting attorney (RCW 36.27.070), the county treasurer (RCW 36.29.170), and the county clerk (RCW 36.23.080) must keep offices at the county seat.

Regionalize County Functions and/or Services

Another alternative would be for the legislature to reassign certain functional responsibilities of elected county officers, vesting them in new multi-county agencies. For offices that are not specified in Washington State Constitution Article XI, Section 5 [Appendix C], the legislature could assign them to new regional entities without limitation. For example, the legislature could provide that specified classes of counties (defined by population) would have no assessors, coroners, or auditors, and that assessment, medical examiner, and election operations be vested in new multi-county agencies. (In this example, the auditor's document registration functions might be transferred to the county treasurer.)

There is historic precedent for this type of approach. Until 1969, state law provided for an elected county superintendent of schools in each county to oversee school district activities. In 1969, the county superintendents were replaced with regional entities called intermediate school districts, now "educational service districts." The nine multi-county educational service districts provide their component districts with educational, fiscal, information technology, human resources, and social services.

For the offices that are specified in the state constitution, the legislature may be able to require the pooling of staff on a regional basis. However, there would still be elected clerks, prosecuting attorneys, sheriffs, and treasurers in each county.

A variation of this approach would be to look for regional groupings of county service functions where pooling staff and other resources into a regional entity might realize efficiencies. Presumably this would be done for the entire state, as was the case with the creation of educational service districts. Thus the criteria used to group counties would have to be meaningful statewide for both large and small counties and for urban and rural counties.

One challenge is to develop a statewide map that groups counties for combined functions or services. (The map would not have to be identical for every function or service; however, multiple maps increase the patchwork quilt nature of local government and confuse citizens.) For certain functions, like public health and road maintenance, a region could be a single large urban county. Other smaller counties (e.g., Columbia, Garfield, and Asotin) could be grouped into one region.

The legislature would probably need to have meaningful criteria to group counties, or to direct an administrative agency to group counties for service provision. Possible criteria for use in grouping counties together might include considerations such as:

- population;
- natural geography or environmental conditions; for example, air quality issues are typically addressed by air basins, and water issues are often addressed by drainage basins;
- transportation corridors and networks; and
- historic relationships between counties.

Candidates for regionalization might also include functions that lend themselves to automation. It could be cost effective, for example, to regionalize certain information technology, software, data, and records management functions.

Provide Fiscal Incentives

Florida uses economic incentives to encourage counties to adopt charters. Florida charter counties have one major fiscal advantage over noncharter counties: they can levy a utility tax in the same manner as municipalities (Florida Counties Foundation, 1999). Within unincorporated territory, Florida counties can levy any tax that municipalities can (1996 *Florida Local Government Formation Manual*, 1-11). It would be possible to structure a similar approach for Washington counties.

Financial incentives did produce charter reform in Florida. As of 1999, 16 out of the state’s 67 counties have adopted charters, a higher percentage than most states. However, these charters have rarely ventured into bold reforms, usually settling for “starter charters” with minimum change from existing systems of governance (Ibid.). The original legislative hope was that home rule would lead to city-county consolidation, but voters have defeated it 25 times in Florida

(Sonenshein, p. 21). Voters saw it as big government, and they already felt very distant from county government. Anti-tax groups also opposed consolidation.

Provide Grants and Staff Support

The state legislature could provide grants and technical staff support to encourage county officers to voluntarily combine staff resources with their counterparts in adjoining counties. For example, grants could be made available to assessors to encourage them to pool their personnel and records. Each county would continue to have its own assessor and assessor’s budget, but most operating costs would be shared with other jurisdictions.

The state could also fund technical assistance on a “circuit rider” basis where specified expertise (e.g., management, information technology, planning) is shared among counties. Smaller cities in Okanogan County, for example, have a circuit rider program that provides planning services. Some counties are too small and/or lack the financial resources to retain certain skills on staff.

Existing Tools

There are models, approaches, and tools already in existence that could be beneficial, if used more widely or aggressively. Some of these include:

City/County Consolidation

Article XI, Section 16 of the Washington State Constitution [Appendix C] allows counties and the cities within them to consolidate into one government entity. This provision contains some of the most far reaching home rule reforms in the Washington State Constitution. It allows a combined city-county charter to control virtually every aspect of local government within the county, including the ability to control:

- the existence of each city and special purpose district within the county;
- the location of boundaries of each city and special district;
- how cities and special districts are created;
- the array of officials for each city and special district, and how these officials are selected;
- the powers retained by the county or combined city-county which may include all the powers and privileges granted to it or granted to any city or county; and
- the structure of government for the county, the array of county offices, the powers and duties of each, and the method of selection.

A combined city-county also has great fiscal flexibility. For example, a combined city-county is not restricted by the uniformity of taxes provision of Article VII, Section 1, of the state constitution. This means that a combined city-county may impose property taxes at varying rates in different parts of the county (Lundin, p. 693). A combined city-county can also incur greater indebtedness than a traditional county or city.

No Washington county has exercised this option; however, there have been a few unsuccessful efforts to create a combined charter in Thurston, Spokane, and Skamania counties. The process requires the development of a consolidated charter by representative freeholders and an election, identical to the petition procedure to adopt a regular county charter under Article XI, Section 4 [Appendix C]. This city-county option would be more practical to consider in those counties that have few cities.

Interlocal Cooperation Act (Chapter 39.34 RCW)

The Interlocal Cooperation Act (Chapter 39.34 RCW) was enacted in 1967 to permit public agencies in the state, including cities and counties, to make the most efficient use of their powers. The Act enabled some types of local governments to cooperate with other agencies "on a basis of mutual advantage to provide services and facilities in a manner that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities." In 1985, this legislation was amended to allow virtually any local unit of government to enter into interlocal contracts and agreements. This approach was seen as a milestone, potentially advancing the provision of regional services and facilities. Others might argue that this is a “band-aid” approach that may actually be hindering more fundamental reform of the actual structure of local government. Hundreds of interlocal contracts and interlocal agreements have been entered into by local governments in the state. These mechanisms can create efficiencies, but may result in government that is not very transparent to citizens, since it may not be clear which governments provide what service or facility.

Two or more local governments may enter into an interlocal agreement or contract where one of the parties to the contract performs a service, activity, or function for the other party or parties to the contract. Each party to the contract must have the legal authority to perform the service, activity, or function that is the subject of the contract.

The Act also permits interlocal agreements for the joint or cooperative performance of a service, activity, or function. A separate legal entity or administrative entity may be created to provide for the joint or cooperative action. While this entity may resemble a unit of government, it is *not* a unit of government.

Service Agreements (Chapter 36.115 RCW)

The purpose of this legislation is to establish a flexible process by which local governments enter into service agreements establishing which jurisdictions should provide various local government services and facilities within specified geographic areas, and how those services and facilities will be financed. The legislature’s intent was to permit the creation of a flexible process to establish service agreements and to recognize that local governments possess broad authority to shape a variety of government service agreements to meet their local needs and circumstances. However, the statute notes that, in general, cities are the unit of local government most appropriate to provide urban governmental services and counties are the unit of local government most appropriate to provide regional governmental services. The basic difference between agreements created under this chapter and interlocal agreements created under Chapter 39.34 RCW is that not all parties subject to the agreement need to approve a service agreement. Such

an agreement could include a shift in tax revenue from any affected local government to the local government designated to provide the services or facilities.

A service agreement must describe: (a) the governmental service or services addressed by the agreement; (b) the geographic area covered by the agreement; (c) which local government or governments are to provide each of the governmental services addressed by the agreement within the geographic area covered by the agreement; and (d) the term of the agreement, if any.

A service agreement becomes effective when approved by: (a) the county legislative authority of each county that includes territory located within the geographic area covered by the agreement; (b) the governing body or bodies of at least a simple majority of the total number of cities within the geographic area covered by the agreement, which cities include at least 75 percent of the total population of cities within the geographic area covered by the agreement; and (c) for each governmental service addressed by the agreement, the governing body or bodies of at least a simple majority of the special districts within the geographic area covered by the agreement and that provide the governmental service within such territory. The participants may agree to use another formula. The county legislative authority must hold a public hearing before the agreement can be effective.

A service agreement may cover a geographic area that includes territory located in more than a single county.

A service agreement may include, but is not limited to, any or all of the following matters:

- a dispute resolution arrangement;
- how joint land-use planning and development regulations by the county and a city or cities, or by two or more cities, may be established, made binding, and enforced;
- how common development standards between the county and a city or cities, or between two or more cities, may be established, made binding, and enforced;
- how capital improvement plans of the county, cities, and special districts shall be coordinated;
- how plans and policies adopted under Chapter 36.70A RCW will be implemented by the service agreement;
- a transfer of revenues between local governments in relationship to their obligations for providing governmental services; and
- the designation of additional area-wide governmental services to be provided by the county.

This statute would seem to provide a very flexible vehicle for local governments to provide services in an efficient manner. However, it also seems that it would be difficult for all the local governments potentially involved to reach agreement. This procedure has not been used by any local governments.

Multi-County Health Districts (RCW 70.46.020)

Health districts consisting of two or more counties may be created by resolution of two or more boards of county commissioners. A multi-county district must consist of all the area of the participating counties. The board of health of such a district must consist of at least five members for districts of two counties and seven members for districts of more than two counties, including two commissioners from each county. The boards of county commissioners may authorize city elected officials and persons other than elected officials to be members of the district board of health, as long as persons other than elected officials do not constitute a majority. Stevens, Pend Oreille, and Ferry counties created the North East Tri-County Health District under this authority.

Part Time Commission/Administrator Model

County elected officials generally serve on a full-time basis. Most elected positions in other types of local government are intended to be only part-time positions and have relatively low compensation rates attached to them. The 2005 annual survey of salaries conducted by the Association of Washington Cities shows that the salaries of some elected commissioners in smaller counties are being paid for working less than 35-40 hours per week. (Klickitat County – 32 hours, Adams County – 22 hours, Columbia County – 23 hours, Garfield County -20 hours, and Whatcom County – 20 hours. The Whatcom County Charter implicitly attempts to make county council positions part-time by restricting compensation for council members to 15 percent of the compensation provided to the county executive.) County legislative authorities have the power to establish compensation levels for all county-elected officials in the county, other than superior court judges and district court judges. The state constitution precludes the compensation of local officials who set their own levels of compensation (e.g., county commissioners) from being increased (or decreased) during their current terms of office. However, a board of commissioners may establish a salary commission that may increase commissioner salaries to be effective during their terms of office.

There does not appear to be a restriction in law that would prevent a county commission from decreasing future commissioners' salary levels (next term) to that of a part-time official. If, for example, three commissioners' salaries were hypothetically reduced by 50 percent each, and each commissioner put in a 20-hour week instead of a 40-hour week (or more), the salary saved could be used to hire a professional administrator. The commissioners would retain their statutory duties and responsibilities. However, the day-to-day management of the county would be delegated to an administrator.

Proponents of professional management would argue that this approach would lead to greater efficiencies in the provision of county services. See the section of this report that addresses the different organizational models for county government for a full discussion of the potential pros and cons of this approach. This model would have to be initiated by the commissioners, because only they have the power to make this change.

Summary and Conclusions

This report examined various trends in county government reform and the potential for such reforms to enhance governmental efficiency, cost savings, and levels of service. It also examined a number of options for changing the structure of county government, ranging from the use of existing tools to statutory changes and constitutional revisions. The pros and cons of the most prevalent forms of county government were also reviewed.

The most visible reform trend in county governance is the emergence of the elected county executive in large urban counties. In Washington, county home rule charters in King, Pierce, Snohomish, and Whatcom counties provide for an elected county executive. County executives are generally elected on a partisan basis, reflecting the political nature of these positions. One of the primary goals of the proponents of government reform in these counties was the institutionalization of strong centralized administrative control.

A trend in noncharter Washington counties is the appearance, in greater numbers, of various council/commission appointed administrators. While their specific roles were not documented in this study, it is apparent that their purpose is to provide at least some measure of enhanced administrative control and coordination. This trend mirrors a similar trend in city government where there has also been an increase in the numbers of appointed city administrators or other similar administrative positions.

Most state officials across the nation want delivery of service to be efficient and accountable. County officials complain, however, that they are hamstrung by state mandates and inadequate county revenues. While Washington counties appear to enjoy some measure of statutory protection from the impacts of unfunded mandates, they are not completely immune. Washington counties have also had to contend with the loss of significant revenue capacity as a result of citizen-sponsored initiatives. Under these circumstances, it should come as no surprise that most county officials show a greater interest in fiscal rather than structural reform. Of course, one of the central purposes of this study is to investigate whether structural reform may lead to improved efficiencies, cost savings, and service levels.

What is the relationship between structural reform and greater efficiency in county government? This question is exceedingly difficult to answer. There have been a number of studies, particularly in the last 10 to 15 years, addressing the question of how county government structure affects performance. MRSC has identified six studies that analyzed the impact of county reform on fiscal policy. However, the focus of these studies has been on county *spending* behavior, not on cost efficiency. Two studies (Desantis and Renner, 1996; Park, 1996) found that elected executive and appointed administrator forms tend to outspend commission forms. Note, however, that the move to reform is often driven by urbanization and a need to provide a broader array of services. One study (Morgan and Kickham, 1999) concluded that structure has no appreciable impact on either spending or revenue policies. A more recent study (Benton, 2003) found that structure does seem to matter, but only in urbanized counties that are experiencing rapid growth in population and service demands.

There are several *existing tools* that could be used to bring about structural reform but they are not being widely-used. Why aren't they being used? Perhaps it is because there is no widespread public perception of a need for comprehensive reform in the absence of a crisis. Nationally, and in some Washington counties, the most powerful catalyst for change in the past has been the occurrence of a major scandal which then served to galvanize support around a reform effort. Perhaps the perceived benefits of reform are not great enough to warrant the costs. The "costs" could include the need to tackle processes that are difficult or not familiar and that have an uncertain outcome. Certainly there are no shortages of individuals or organizations that are willing to oppose reform efforts. Opposition often comes from labor unions who feel secure with the status quo. Incumbent members of commissions and those independently-elected county officials who do not wish to have their elected positions become appointed have used their influence to sway public opinion against proposed charters. Taxpayer groups often perceive that government reform will simply lead to bigger government and higher taxes. Many smaller counties in Washington face serious fiscal challenges, yet the citizens in these counties have not generally been motivated to seek major changes in the form of county government.

The lack of greater reform activity may also be related to the nature of the reform process itself. The track record of county charter drafting and adoption efforts in Washington and in other states does not offer a great deal of encouragement for would-be reformers. On the other hand, there is strong evidence to support the proposition that state legislation offering a predefined selection of optional county government forms fosters the adoption of county government structural reform (Marando and Reeves, 1993).

MRSC is not charged with making recommendations on which form of government is preferable. This document simply attempts to document and describe the major options that are available and the arguments used by their supporters and opponents. Citizens and local officials who are well-informed about the available options will ultimately decide which forms of government will work best for them.

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Appendix A

Washington State
House of Representatives
Office of Program Research
BILL ANALYSIS
Local Government Committee
HJR 4211

Brief Description: Authorizing consolidation or merging of statutory and constitutional county functions and structures.

Sponsors: Representatives Sommers, Curtis and Simpson.

Brief Summary of Bill

- Creates a ballot initiative for consideration at the next general election proposing the amendment of the state constitution so as to allow counties to consolidate or merge any statutory or constitutional function or structure.

- Authorizes the legislature to pass laws necessary to implement the proposed constitutional amendment and to impose additional requirements or conditions for such implementation.

Hearing Date: 2/9/07

Staff: Thamas Osborn (786-7129).

Background:

Article XI of the Constitution of the State of Washington.
In Article XI, sections 1 through 5, the Constitution of the State of Washington (State Constitution) provides that counties shall be the primary legal subdivision of the state and outlines the general requirements for county governance. Under these constitutional provisions, the Legislature is required to establish a uniform system of county government and to provide for the election and compensation of county commissioners, sheriffs, clerks, treasurers, prosecuting attorneys, and other necessary officers.

The state constitution prohibits the creation of a new county with fewer than 2,000 residents or which has the effect of reducing the population of an existing county to less than 4,000 residents. No territory can be taken from any county unless a majority of the voters living in the territory petition for the change in boundaries. Any county taking territory from another county is liable for a just proportion of existing debts and liabilities of the county losing territory. Five new

counties have been formed since statehood, and no new counties have been formed since 1911. No counties have ever been dissolved.

At present, Washington has 39 counties with populations ranging from 2,400 to 1.7 million. Thirty-four of these counties operate under the commission form of government and 5 have adopted "home rule" charters, pursuant to provisions in the State Constitution and legislation enacted in 1948. The five "home rule" charter counties are: Clallam, King, Pierce, Snohomish, and Whatcom.

Interlocal Cooperation Act Chapter 39.34 RCW.

Under the Interlocal Cooperation Act (ICA), chapter 39.34 RCW, "public agencies" including cities and counties are granted broad authority to engage in joint or cooperative actions that may include the consolidation or merger of a broad range of functions and/or structures. The ICA specifically states that: 1) "Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority..."; and that 2) "Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter..." Accordingly, the ICA is often utilized by cities and counties in order to engage in cooperative activities and agreements with respect to law enforcement, fire protection, public utility administration, etc.

The ICA defines "public agency" to include any agency, political subdivision, or unit of local government. The term includes municipal corporations, counties, special purpose districts, local service districts, state agencies, federal agencies, recognized Indian tribes, as well as other states' political subdivisions. The broad authority granted to public agencies under the ICA is, however, subject to the condition that interlocal agreements may not violate the provisions of the state constitution or federal law.

Summary of Bill:

The bill creates a ballot initiative for consideration by the voters at the next general election proposing the amendment of Article XI, Section 3, of the State Constitution, so as to allow two or more counties to "consolidate or merge any statutory or constitutional function or structure, in a manner as prescribed by law." The stated purpose of the amendment is to promote "efficiency, cost savings, and improved service," but stops short of actually allowing the formal merger of two or more counties into a single county.

The broad language of the proposed amendment removes any constitutional restrictions on counties sharing the entire range of county functions, including governance, law enforcement, road maintenance, administration of public utilities, finance, and public health. Furthermore, the amendment appears to authorize counties to share elected officials and their respective departments, including county commissioners, sheriffs, county clerks, treasurers, and prosecuting attorneys. In short, broadly construed, the proposed amendment can be interpreted to allow the *de facto* merger of two or more counties, but does not authorize the formal creation of a new county or the changing of geographic boundaries.

In addition, the proposed constitutional amendment explicitly authorizes the Legislature to pass those laws necessary to implement the amendment and to impose additional requirements or conditions required for such implementation. Any such laws must be "general" laws applicable to the whole state. Accordingly, the Legislature retains control of how the provisions of the amendment are implemented, insofar as the amendment explicitly grants it broad, discretionary authority to regulate the consolidation and/or mergers of county functions and structures and to create procedural requirements.

Appropriation: None.

Fiscal Note: Requested on February 5, 2007.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The following amendment to HJR 4211 was offered:

4211 AMH HINK MITC 088

HJR 4211 - H AMD **427**

By Representative Hinkle

1 On page 2, after line 12, insert the following:
2 "For purposes of efficiency, cost savings, and improved
3 service, and in lieu of counties consolidating or merging as
4 otherwise provided under this subsection, a county may receive
5 general state sales and use tax revenues, in the form of a credit
6 against the state tax, from taxable events occurring within the
7 county, in an amount up to 0.1 percent of the selling price in the
8 case of a sales tax or value of the article used in the case of a
9 use tax."

EFFECT: Allows a county to retain a portion of the state sales and use tax to improve efficiency, cost savings, and service in the county.

Appendix B

Washington State
House of Representatives
Office of Program Research
BILL ANALYSIS
Local Government Committee
HJR 4212

Brief Description: Authorizing additional governance options for counties.

Sponsors: Representatives Sommers, Curtis and Simpson.

Brief Summary of Bill

- Proposes a constitutional amendment authorizing the citizens of a noncharter county to alter the terms of the governance of the county through a ballot proposition that may initiated either by voter petition or by the county legislative authority.

- Authorizes a noncharter county to operate, following voter approval, under either an elected executive/council plan of government or a council/manager plan of government.

- Allows adjacent noncharter counties to share a single official to act on behalf of both counties, with the exception of the members of the county legislative authority, superior court judges, and inferior court judges.

Hearing Date: 2/9/07

Staff: Thamas Osborn (786-7129).

Background:

Overview: State Constitutional Requirements Regarding County Governance.
The Constitution of the State of Washington (Constitution), Article XI, sections 3 through 5, controls the creation and governance of counties in this state. The Constitution allows for two types of county governments: 1) the "commission" form (commission counties); and 2) the "Home Rule" charter county form (charter counties). Until 1969, all 39 Washington counties operated under the commission form of government. Since then, five counties have chosen to adopt home rule charters.

The "Commission" Form of County Government.

Article XI, section 5, makes commission counties the *standard* form of county adopted by jurisdictions throughout the state and sets forth, in general terms, the type of governmental

structure commission counties must have. All noncharter counties must adopt this form of county governance and are subject to extensive state regulation under chapter Title 36 RCW. In commission (i.e., noncharter) counties, the county governing body consists of an elected board composed of three commissioners who serve as the legislative body and also perform executive functions. Counties with populations greater than 300,000 can increase the size of the commission from three to five members. No single administrator or executive oversees a county's operations under the commission form of government.

The board of county commissioners shares administrative and, to some extent, legislative functions with other independently elected county officials, including a clerk, treasurer, sheriff, assessor, coroner and auditor (or recorder). Other independently elected county officials and court officers include the county prosecuting attorney and the judges of the county superior court.

The "Home Rule" Charter Form of County Government.

In 1948, Article XI, section 4, of the Constitution was amended to allow counties the option of adopting "Home Rule" charters. This amendment provides a county with great flexibility in determining its form of governance, insofar it provides few specific requirements for the type of governmental structure that must be adopted. Although the "home rule" provision does not change the general role and authority of counties, it does allow counties to provide for a form of government different from the commission form prescribed by state law. By approving the creation of a charter county, county voters can allow appointed county officers to perform functions previously performed by independently elected officials and can change the names and duties of the county officers prescribed by the Constitution and state law. Home rule charters may not, however, change the elected status and duties of the county prosecuting attorney or superior and district court judges, or the jurisdiction of the courts.

Since 1948, five counties have elected to adopt "home rule" charters: Clallam (1979); King (1969); Pierce (1981); Snohomish (1980); and Whatcom (1979). Of the five home rule charter counties, four have adopted the council-executive form of government with an elected executive. The fifth charter county, Clallam County, has retained the three-member commission form of government with responsibilities similar to boards of commissioners in noncharter counties. A county charter can make any elected county official, except the prosecuting attorney and superior court judges, an appointive rather than an elective position.

Summary of Bill:

The House Joint Resolution creates a ballot proposition for consideration at the next general election proposing the amendment of the Constitution so as to provide the citizens of noncharter counties with an electoral mechanism for altering the terms of the governance of their county. In order to do so, the voters must pass a ballot proposition that may be initiated either by a voter petition or by the action of the county legislative authority. The petition method requires that the petition be signed by registered voters equal in number to at least ten percent of the number of voters who voted at the last general election.

The proposed amendment requires that the Legislature enact "general laws" allowing the implementation of the various provisions of the amendment. These general laws must allow a noncharter county to operate following voter approval under either an elected executive/council plan of government or a council/manager plan of government and, with certain specified exceptions, either plan of government may allow for the creation of additional county officials and/or the elimination of county offices otherwise required by the state constitution.

The proposed amendment also allows two or more adjacent noncharter counties to share a single official to act on behalf of these counties, with the exception of the members of the county legislative authority, superior court judges, and inferior court judges. Shared officials may either be appointed by the joint action of the pertinent county legislative authorities or be elected by the voters from a single district encompassing the adjacent counties. However, a prosecuting attorney acting on behalf of two or more adjacent counties must be elected from a single district encompassing the adjacent counties.

Appropriation: None.

Fiscal Note: Requested on February 5, 2007.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Appendix C

Article XI, §§ 1 – 5 and 16
Washington State Constitution
County, City and Township Organization

ARTICLE XI

COUNTY, CITY, AND TOWNSHIP ORGANIZATION

SECTION 1 EXISTING COUNTIES RECOGNIZED. The several counties of the Territory of Washington existing at the time of the adoption of this Constitution are hereby recognized as legal subdivisions of this state.

SECTION 2 COUNTY SEATS - LOCATION AND REMOVAL. No county seat shall be removed unless three-fifths of the qualified electors of the county, voting on the proposition at a general election shall vote in favor of such removal, and three-fifths of all votes cast on the proposition shall be required to relocate a county seat. A proposition of removal shall not be submitted in the same county more than once in four years.

Governmental continuity during emergency periods: Art. 2 Section 42.

SECTION 3 NEW COUNTIES. No new counties shall be established which shall reduce any county to a population less than four thousand (4,000), nor shall a new county be formed containing a less population than two thousand (2,000). There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition therefore and then only under such other conditions as may be prescribed by a general law applicable to the whole state. Every county which shall be enlarged or created from territory taken from any other county or counties shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken: *Provided,* That in such accounting neither county shall be charged with any debt or liability then existing incurred in the purchase of any county property, or in the purchase or construction of any county buildings then in use, or under construction, which shall fall within and be retained by the county: *Provided further,* That this shall not be construed to affect the rights of creditors.

SECTION 4 COUNTY GOVERNMENT AND TOWNSHIP ORGANIZATION. The legislature shall establish a system of county government, which shall be uniform throughout the state except as hereinafter provided, and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county voting at a general election shall so determine; and whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made, and the business of such county and the local affairs of the several townships therein, shall be managed and transacted in the manner prescribed by such general law.

Any county may frame a "Home Rule" charter for its own government subject to the Constitution and laws of this state, and for such purpose the legislative authority of such county may cause an election to be had, at which election there shall be chosen by the qualified voters of said county not less than fifteen (15) nor more than twenty-five (25) freeholders thereof, as determined by the legislative authority, who shall have been residents of said county for a period of at least five (5) years preceding their election and who are themselves qualified electors, whose duty it shall be to convene within thirty (30) days after their election and prepare and propose a charter for such county. Such proposed charter shall be submitted to the qualified electors of said county, and if a majority of such qualified electors voting thereon ratify the same, it shall become the charter of said county and shall become the organic law thereof, and supersede any existing charter, including amendments thereto, or any existing form of county government, and all special laws inconsistent with such charter. Said proposed charter shall be published in two (2) legal newspapers published in said county, at least once a week for four (4) consecutive weeks prior to the day of submitting the same to the electors for their approval as above provided. All elections in this section authorized shall only be had upon notice, which notice shall specify the object of calling such election and shall be given for at least ten (10) days before the day of election in all election districts of said county. Said elections may be general or special elections and except as herein provided, shall be governed by the law regulating and controlling general or special elections in said county. Such charter may be amended by proposals therefor submitted by the legislative authority of said county to the electors thereof at any general election after notice of such submission published as above specified, and ratified by a majority of the qualified electors voting thereon. In submitting any such charter or amendment thereto, any alternate article or proposition may be presented for the choice of the voters and may be voted on separately without prejudice to others.

Any home rule charter proposed as herein provided, may provide for such county officers as may be deemed necessary to carry out and perform all county functions as provided by charter or by general law, and for their compensation, but shall not affect the election of the prosecuting attorney, the county superintendent of schools, the judges of the superior court, and the justices of the peace, or the jurisdiction of the courts.

Notwithstanding the foregoing provision for the calling of an election by the legislative authority of such county for the election of freeholders to frame a county charter, registered voters equal in number to ten (10) per centum of the voters of any such county voting at the last preceding general election, may at any time propose by petition the calling of an election of freeholders. The petition shall be filed with the county auditor of the county at least three (3) months before any general election and the proposal that a board of freeholders be elected for the purpose of framing a county charter shall be submitted to the vote of the people at said general election, and at the same election a board of freeholders of not less than fifteen (15) or more than twenty-five (25), as fixed in the petition calling for the election, shall be chosen to draft the new charter. The procedure for the nomination of qualified electors as candidates for said board of freeholders shall be prescribed by the legislative authority of the county, and the procedure for the framing of the charter and the submission of the charter as framed shall be the same as in the case of a board of freeholders chosen at an election initiated by the legislative authority of the county.

In calling for any election of freeholders as provided in this section, the legislative authority of the county shall apportion the number of freeholders to be elected in accordance with either the legislative districts or the county commissioner districts, if any, within said county, the number of said freeholders to be elected from each of said districts to be in proportion to the population of said districts as nearly as may be.

Should the charter proposed receive the affirmative vote of the majority of the electors voting thereon, the legislative authority of the county shall immediately call such special election as may be provided for therein, if any, and the county government shall be established in accordance with the terms of said charter not more than six (6) months after the election at which the charter was adopted.

The terms of all elective officers, except the prosecuting attorney, the county superintendent of schools, the judges of the superior court, and the justices of the peace, who are in office at the time of the adoption of a Home Rule Charter shall terminate as provided in the charter. All appointive officers in office at the time the charter goes into effect, whose positions are not abolished thereby, shall continue until their successors shall have qualified.

After the adoption of such charter, such county shall continue to have all the rights, powers, privileges and benefits then possessed or thereafter conferred by general law. All the powers, authority and duties granted to and imposed on county officers by general law, except the prosecuting attorney, the county superintendent of schools, the judges of the superior court and the justices of the peace, shall be vested in the legislative authority of the county unless expressly vested in specific officers by the charter. The legislative authority may by resolution delegate any of its executive or administrative powers, authority or duties not expressly vested in specific officers by the charter, to any county officer or officers or county employee or employees.

The provisions of sections 5, 6, 7, and the first sentence of section 8 of this Article as amended shall not apply to counties in which the government has been established by charter adopted under the provisions hereof. The authority conferred on the board of county commissioners by Section 15 of Article II as amended, shall be exercised by the legislative authority of the county. [**AMENDMENT 21,** 1947 Senate Joint Resolution No. 5, p 1372. Approved November 2, 1948.]

Original text - Art. 11 Section 4 COUNTY GOVERNMENT AND TOWNSHIP ORGANIZATION - The legislature shall establish a system of county government which shall be uniform throughout the state, and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county voting at a general election shall so determine, and whenever a county shall adopt township organization the assessment and collection of the revenue shall be made and the business of such county, and the local affairs of the several townships therein shall be managed and transacted in the manner prescribed by such general laws.

SECTION 5 COUNTY GOVERNMENT. The legislature, by general and uniform laws, shall provide for the election in the several counties of boards of county commissioners, sheriffs, county clerks, treasurers, prosecuting attorneys and other county, township or precinct and district officers, as public convenience may require, and shall prescribe their duties, and fix their terms of office: *Provided,* That the legislature may, by general laws, classify the counties by population and provide for the election in certain classes of counties certain officers who shall

exercise the powers and perform the duties of two or more officers. It shall regulate the compensation of all such officers, in proportion to their duties, and for that purpose may classify the counties by population: *Provided,* That it may delegate to the legislative authority of the counties the right to prescribe the salaries of its own members and the salaries of other county officers. And it shall provide for the strict accountability of such officers for all fees which may be collected by them and for all public moneys which may be paid to them, or officially come into their possession. [**AMENDMENT 57,** part, 1971 Senate Joint Resolution No. 38, part, p 1829. Approved November, 1972.]

Amendment 12 (1924) - Art. 11 Section 5 COUNTY GOVERNMENT - The legislature, by general and uniform laws, shall provide for the election in the several counties of boards of county commissioners, sheriffs, county clerks, treasurers, prosecuting attorneys and other county, township or precinct and district officers, as public convenience may require, and shall prescribe their duties, and fix their terms of office: Provided, That the legislature may, by general laws, classify the counties by population and provide for the election in certain classes of counties certain officers who shall exercise the powers and perform the duties of two or more officers. It shall regulate the compensation of all such officers, in proportion to their duties, and for that purpose may classify the counties by population. And it shall provide for the strict accountability of such officers for all fees which may be collected by them and for all public moneys which may be paid to them, or officially come into their possession.
[AMENDMENT 12, 1923 p 255 Section 1. Approved November, 1924.]

Original text - Art. 11 Section 5 ELECTION AND COMPENSATION OF COUNTY OFFICERS - The legislature by general and uniform laws shall provide for the election in the several counties of boards of county commissioners, sheriffs, county clerks, treasurers, prosecuting attorneys, and other county, township or precinct and district officers as public convenience may require, and shall prescribe their duties, and fix their terms of office. It shall regulate the compensation of all such officers, in proportion to their duties, and for that purpose may classify the counties by population. And it shall provide for the strict accountability of such officers for all fees which may be collected by them, and for all public moneys which may be paid to them, or officially come into their possession.

SECTION 16 COMBINED CITY-COUNTY. Any county may frame a "Home Rule" charter subject to the Constitution and laws of this state to provide for the formation and government of combined city and county municipal corporations, each of which shall be known as "city-county". Registered voters equal in number to ten (10) percent of the voters of any such county voting at the last preceding general election may at any time propose by a petition the calling of an election of freeholders. The provisions of section 4 of this Article with respect to a petition calling for an election of freeholders to frame a county home rule charter, the election of freeholders, and the framing and adoption of a county home rule charter pursuant to such petition shall apply to a petition proposed under this section for the election of freeholders to frame a city-county charter, the election of freeholders, and to the framing and adoption of such city-county charter pursuant to such petition. Except as otherwise provided in this section, the provisions of section 4 applicable to a county home rule charter shall apply to a city-county charter. If there are not sufficient legal newspapers published in the county to meet the requirements for publication of a proposed charter under section 4 of this Article, publication in a legal newspaper circulated in the county may be substituted for publication in a legal newspaper published in the county. No such "city-county" shall be formed except by a majority vote of the qualified electors voting thereon in the county. The charter shall designate the respective officers of such city-county who shall perform the duties imposed by law upon county officers. Every such city-county shall have and enjoy all rights, powers and privileges asserted in its charter, and in addition thereto, such rights, powers and privileges as may be granted to it, or to any city or county or class or classes of cities and counties. In the event of a conflict in the constitutional

provisions applying to cities and those applying to counties or of a conflict in the general laws applying to cities and those applying to counties, a city-county shall be authorized to exercise any powers that are granted to either the cities or the counties.

No legislative enactment which is a prohibition or restriction shall apply to the rights, powers and privileges of a city-county unless such prohibition or restriction shall apply equally to every other city, county, and city-county.

The provisions of sections 2, 3, 5, 6, and 8 and of the first paragraph of section 4 of this article shall not apply to any such city-county.

Municipal corporations may be retained or otherwise provided for within the city-county. The formation, powers and duties of such municipal corporations shall be prescribed by the charter.

No city-county shall for any purpose become indebted in any manner to an amount exceeding three per centum of the taxable property in such city-county without the assent of three-fifths of the voters therein voting at an election to be held for that purpose, nor in cases requiring such assent shall the total indebtedness at any time exceed ten per centum of the value of the taxable property therein, to be ascertained by the last assessment for city-county purposes previous to the incurring of such indebtedness: *Provided,* That no part of the indebtedness allowed in this section shall be incurred for any purpose other than strictly city-county or other municipal purposes: *Provided further,* That any city-county, with such assent may be allowed to become indebted to a larger amount, but not exceeding five per centum additional for supplying such city-county with water, artificial light, and sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the city-county.

No municipal corporation which is retained or otherwise provided for within the city-county shall for any purpose become indebted in any manner to an amount exceeding one and one-half per centum of the taxable property in such municipal corporation without the assent of three-fifths of the voters therein voting at an election to be held for that purpose, nor shall the total indebtedness at any time exceed five per centum of the value of the taxable property therein, to be ascertained by the last assessment for city-county purposes previous to the incurring of such indebtedness: *Provided,* That no part of the indebtedness allowed in this section shall be incurred for any purpose other than strictly municipal purposes: *Provided further,* That any such municipal corporation, with such assent, may be allowed to become indebted to a larger amount, but not exceeding five per centum additional for supplying such municipal corporation with water, artificial light, and sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the municipal corporation. All taxes which are levied and collected within a municipal corporation for a specific purpose shall be expended within that municipal corporation.

The authority conferred on the city-county government shall not be restricted by the second sentence of Article 7, section 1, or by Article 8, section 6 of this Constitution. [**AMENDMENT 58,** 1971 House Joint Resolution No. 21, p 1831. Approved November, 1972.]

Amendment 23 (1948) - Art. 11 Section 16 COMBINED CITY AND COUNTY - The legislature shall, by general law, provide for the formation of combined city and county municipal corporations, and for the manner of

determining the territorial limits thereof, each of which shall be known as a "city and county," and, when organized, shall contain a population of at least three hundred thousand (300,000) inhabitants. No such city and county shall be formed except by a majority vote of the qualified electors of the area proposed to be included therein and also by a majority vote of the qualified electors of the remainder of that county from which such area is to be taken. Any such city and county shall be permitted to frame a charter for its own government, and amend the same, in the manner provided for cities by section 10 of this article: *Provided,* however, That the first charter of such city and county shall be framed and adopted in a manner to be specified in the general law authorizing the formation of such corporations: *Provided further,* That every such charter shall designate the respective officers of such city and county who shall perform the duties imposed by law upon county officers. Every such city and county shall have and enjoy all rights, powers and privileges asserted in its charter, not inconsistent with general laws, and in addition thereto, such rights, powers and privileges as may be granted to it, or possessed and enjoyed by cities and counties of like population separately organized.

No county or county government existing outside the territorial limits of such county and city shall exercise any police, taxation or other powers within the territorial limits of such county and city, but all such powers shall be exercised by the city and county and the officers thereof, subject to such constitutional provisions and general laws as apply to either cities or counties: *Provided,* That the provisions of sections 2, 3, 4, 5, 6, 7, and 8 of this article shall not apply to any such city and county: *Provided further,* That the salary of any elective or appointive officer of a city and county shall not be changed after his election or appointment or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed. In case an existing county is divided in the formation of a city and county, such city and county shall be liable for a just proportion of the existing debts or liabilities of the former county, and shall account for and pay the county remaining a just proportion of the value of any real estate or other property owned by the former county and taken over by the county and city, the method of determining such just proportion to be prescribed by general law, but such division shall not affect the rights of creditors. The officers of a city and county, their compensation, qualifications, term of office and manner of election or appointment shall be as provided for in its charter, subject to general laws and applicable *constitutional provisions.* [AMENDMENT 23, 1947 House Joint Resolution No. 13, p 1386. Approved November 2, 1948.]

Appendix D
Chronology of County Home Rule Efforts in Washington – 1947-2007

1947:
Legislature sends county and city-county home rule constitutional amendments to the 1948 general election ballot.

1948:
County and city-county home rule constitutional amendments approved.

1950:
King County elects board of freeholders.

1952:
King County rejects proposed charter.

1968:
Snohomish County elects board of freeholders.
King County charter approved.

1969:
Snohomish County rejects proposed charter.
Kitsap County elects board of freeholders.

1970:
Cowlitz County elects board of freeholders.

1971:
Kitsap County rejects proposed charter.
Cowlitz County rejects proposed charter.

1972:
San Juan County elects board of freeholders.

1974:
San Juan County rejects proposed charter.

1975:
Island County elects board of freeholders.
Clallam County elects board of freeholders.

1976:
Island County rejects proposed charter.
Pierce County rejects proposition to elect board of freeholders.
Clallam County approves charter.

1977:
Whatcom County elects board of freeholders.
Island County rejects proposition to elect board of freeholders.

1978:
Whatcom County approves proposed charter.
Thurston County elects board of freeholders.

1979:
Snohomish County elects board of freeholders.
Cowlitz County rejects proposition to elect board of freeholders.
Pierce County elects board of freeholders.
Thurston County rejects proposed charter.
Snohomish County approves proposed charter.

1980:
Pierce County approves proposed charter.

1982:
San Juan County elects board of freeholders.
Clark County rejects proposition to elect a city-county board of freeholders.

1983:
San Juan County rejects proposed charter.

1986:
Thurston County rejects proposition to elect city-county board of freeholders.

1989:
Thurston County elects city-county board of freeholders.

1990:
Thurston County rejects proposed city-county consolidation charter.

1992:
Ferry County rejects proposition to elect board of freeholders.
Spokane County elects city-county board of freeholders.

1994:
Skamania County elects board of freeholders.

1995:
Spokane County rejects city-county consolidation charter.

1996:
Island County rejects proposed charter.

1997:
Clark County rejects proposition to elect board of freeholders.
Cowlitz County elects board of freeholders.

1998:
Cowlitz County rejects proposed charter.

1999:
Skamania County rejects proposed charter.

2000:
Clark County elects board of freeholders.
Kitsap County elects board of freeholders.

2002:
Clark County rejects proposed charter.
Kitsap County rejects proposed charter.

2003:
Skagit County rejects proposition to elect board of freeholders

2004:
San Juan County elects board of freeholders.

2005:
San Juan County approves proposed charter.

2006:
Grant County elects board of freeholders

Appendix E

Selected Statutes - County Officials

Elective County Officers Enumerated

RCW 36.16.030
Elective county officers enumerated.

Except as provided elsewhere in this section, in every county there shall be elected from among the qualified voters of the county a county assessor, a county auditor, a county clerk, a county coroner, three county commissioners, a county prosecuting attorney, a county sheriff and a county treasurer, except that in each county with a population of less than forty thousand no coroner shall be elected and the prosecuting attorney shall be ex officio coroner. Whenever the population of a county increases to forty thousand or more, the prosecuting attorney shall continue as ex officio coroner until a coroner is elected, at the next general election at which the office of prosecuting attorney normally would be elected, and assumes office as provided in *RCW 29.04.170. In any county where the population has once attained forty thousand people and a current coroner is in office and a subsequent census indicates less than forty thousand people, the county legislative authority may maintain the office of coroner by resolution or ordinance. If the county legislative authority has not passed a resolution or enacted an ordinance to maintain the office of coroner, the elected coroner shall remain in office for the remainder of the term for which he or she was elected, but no coroner shall be elected at the next election at which that office would otherwise be filled and the prosecuting attorney shall be the ex officio coroner. In a county with a population of two hundred fifty thousand or more, the county legislative authority may replace the office of coroner with a medical examiner system and appoint a medical examiner as specified in RCW 36.24.190. A noncharter county may have five county commissioners as provided in RCW 36.32.010 and 36.32.055 through 36.32.0558.

[1996 c 108 § 1; 1991 c 363 §§ 46, 47; 1990 c 252 § 8; 1963 c 4 § 36.16.030. Prior: 1955 c 157 § 5; prior: (i) Code 1881 § 2707; 1869 p 310 §§ 1-3; 1863 p 549 §§ 1-3; 1854 p 424 §§ 1-3; RRS § 4083. (ii) Code 1881 § 2738; 1863 p 552 § 1; 1854 p 426 § 1; RRS § 4106. (iii) 1891 c 5 § 1; RRS § 4127. (iv) 1890 p 478 § 1; 1886 p 164 § 1; 1883 p 39 § 1; Code 1881 § 2752; 1869 p 402 § 1; 1854 p 428 § 1; RRS § 4140. (v) 1943 c 139 § 1; Code 1881 § 2766; 1863 p 557 § 1; 1854 p 434 § 1; Rem. Supp. 1949 § 4155. (vi) Code 1881 § 2775, part; 1863 p 559 § 1, part; 1854 p 436 § 1, part; RRS § 4176, part. (vii) 1933 c 136 § 2; 1925 ex.s. c 148 § 2; RRS § 4200-2a. (viii) 1937 c 197 § 1; 1933 c 136 § 3; 1925 ex.s. c 148 § 3; RRS § 4200-3a. (ix) 1937 c 197 § 2; 1933 c 136 § 4; 1925 ex.s. c 148 § 4; RRS § 4200-4a. (x) 1927 c 37 § 1; 1890 p 304 § 2; RRS § 4205-1.]

Combining Offices of Auditor and Clerk in Certain Counties

RCW 36.16.032
Offices of auditor and clerk may be combined in counties with populations of less than five thousand -- Salary.

The office of county auditor may be combined with the office of county clerk in each county with a population of less than five thousand by unanimous resolution of the county legislative authority passed thirty days or more prior to the first day of filing for the primary election for county offices. The salary of such office of county clerk combined with the office of county auditor, and the salary of the office of county auditor that is not combined with the office of county clerk, shall be not less than ten thousand three hundred dollars. The county legislative authority of such county is authorized to increase or decrease the salary of such office: PROVIDED, That the legislative authority of the county shall not reduce the salary of any official below the amount which such official was receiving on January 1, 1973.

[1991 c 363 § 48; 1973 1st ex.s. c 88 § 1; 1972 ex.s. c 97 § 1; 1967 ex.s. c 77 § 1; 1963 c 164 § 2; 1963 c 4 § 36.16.032. Prior: 1957 c 219 § 4.]

County Commissioners

RCW 36.32.120
Powers of legislative authorities.

The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted at fees set by the legislative authorities which shall not exceed the costs of administration and operation of such licensed activities;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the

installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: PROVIDED, That except for Washington state statutes, there shall be filed in the county auditor's office one copy of such codes and compilations ten days prior to their adoption by reference, and additional copies may also be filed in library or city offices within the county as deemed necessary by the county legislative authority: PROVIDED FURTHER, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor or a civil violation subject to a monetary penalty: PROVIDED FURTHER, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime and no act that is a state crime may be made a civil violation. The notice must set out a copy of the proposed regulations or summarize the content of each proposed regulation; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. For purposes of this subsection, a summary shall mean a brief description which succinctly describes the main points of the proposed regulation. When the county publishes a summary, the publication shall include a statement that the full text of the proposed regulation will be mailed upon request. An inadvertent mistake or omission in publishing the text or a summary of the content of a proposed regulation shall not render the regulation invalid if it is adopted. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as district judges;

(10) Have power to declare by ordinance what shall be deemed a nuisance within the county, including but not limited to "litter" and "potentially dangerous litter" as defined in RCW 70.93.030; to prevent, remove, and abate a nuisance at the expense of the parties creating, causing, or committing the nuisance; and to levy a special assessment on the land or premises on which the nuisance is situated to defray the cost, or to reimburse the county for the cost of abating it. This assessment shall constitute a lien against the property which shall be of equal rank with state, county, and municipal taxes.

[2003 c 337 § 6; 1994 c 301 § 8; 1993 c 83 § 9; 1989 c 378 § 39; 1988 c 168 § 8; 1987 c 202 § 206; 1986 c 278 § 2; 1985 c 91 § 1; 1982 c 226 § 3; 1979 ex.s. c 136 § 35; 1975 1st ex.s. c 216 § 1; 1967 ex.s. c 59 § 1; 1963 c 4 § 36.32.120. Prior: 1961 c 27 § 2; prior: (i) 1947 c 61 § 1; 1943 c 99 § 1; Code 1881 § 2673; 1869 p 305 § 11; 1867 p 54 § 11; 1863 p 542 § 11; 1854 p 421 § 11; Rem. Supp. 1947 § 4056. (ii) Code 1881 § 2681; 1869 p 307 § 20; 1867

p 56 § 20; 1863 p 543 § 20; 1854 p 422 § 20; RRS § 4061. (iii) Code 1881 § 2687; 1869 p 308 § 26; 1867 p 57 § 26; 1863 p 545 § 28; 1854 p 423 § 22; RRS § 4071.]

Prosecuting Attorney

RCW 36.27.020
Duties.

The prosecuting attorney shall:

(1) Be legal adviser of the legislative authority, giving them [it] his or her written opinion when required by the legislative authority or the chairperson thereof touching any subject which the legislative authority may be called or required to act upon relating to the management of county affairs;

(2) Be legal adviser to all county and precinct officers and school directors in all matters relating to their official business, and when required draw up all instruments of an official nature for the use of said officers;

(3) Appear for and represent the state, county, and all school districts subject to the supervisory control and direction of the attorney general in all criminal and civil proceedings in which the state or the county or any school district in the county may be a party;

(4) Prosecute all criminal and civil actions in which the state or the county may be a party, defend all suits brought against the state or the county, and prosecute actions upon forfeited recognizances and bonds and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or the county;

(5) Attend and appear before and give advice to the grand jury when cases are presented to it for consideration and draw all indictments when required by the grand jury;

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when the prosecuting attorney has information that any such offense has been committed and the prosecuting attorney shall for that purpose attend when required by them if the prosecuting attorney is not then in attendance upon the superior court;

(7) Carefully tax all cost bills in criminal cases and take care that no useless witness fees are taxed as part of the costs and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law;

(8) Receive all cost bills in criminal cases before district judges at the trial of which the prosecuting attorney was not present, before they are lodged with the legislative authority for payment, whereupon the prosecuting attorney may retax the same and the prosecuting attorney must do so if the legislative authority deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to the prosecuting attorney's

knowledge to the special consideration of the proper jury;

(10) Examine once in each year the official bonds of all county and precinct officers and report to the legislative authority any defect in the bonds of any such officer;

(11) Make an annual report to the governor as of the 31st of December of each year setting forth the amount and nature of business transacted by the prosecuting attorney in that year with such other statements and suggestions as the prosecuting attorney may deem useful;

(12) Send to the state liquor control board at the end of each year a written report of all prosecutions brought under the state liquor laws in the county during the preceding year, showing in each case, the date of trial, name of accused, nature of charges, disposition of case, and the name of the judge presiding;

(13) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law.

[1995 c 194 § 4; 1987 c 202 § 205; 1975 1st ex.s. c 19 § 1; 1963 c 4 § 36.27.020. Prior: (i) 1911 c 75 § 1; 1891 c 55 § 7; RRS § 116. (ii) 1886 p 65 § 5; 1883 p 73 § 10; Code 1881 § 2171; 1879 p 93 § 6; 1877 p 246 § 6; 1863 p 408 § 4; 1860 p 335 § 3; 1858 p 12 § 4; 1854 p 416 § 4; RRS § 4130. (iii) 1886 p 61 § 7; 1883 p 73 § 12; Code 1881 § 2168; 1879 p 94 § 8; 1877 p 247 § 8; RRS § 4131. (iv) 1886 p 61 § 8; 1883 p 74 § 13; Code 1881 § 2169; 1879 p 94 § 8; 1877 p 247 § 9; RRS § 4132. (v) 1886 p 61 § 9; 1883 p 74 § 14; Code 1881 § 2170; 1879 p 94 § 9; 1877 p 247 § 10; RRS § 4133. (vi) 1886 p 62 § 13; 1883 p 74 § 18; Code 1881 § 2165; 1879 p 95 § 13; 1877 p 248 § 14; 1863 p 409 § 5; 1860 p 334 § 4; 1858 p 12 § 5; 1854 p 417 § 5; RRS § 4134. (vii) Referendum No. 24; 1941 c 191 § 1; 1886 p 63 § 18; 1883 p 76 § 24; Code 1881 § 2146; 1879 p 96 § 18; RRS § 4136. (viii) Code 1881 § 3150; 1866 p 52 § 10; RRS § 4137. (ix) 1933 ex.s. c 62 § 81, part; RRS § 7306-81, part.]

County Sheriff

RCW 36.28.010
General duties.

The sheriff is the chief executive officer and conservator of the peace of the county. In the execution of his office, he and his deputies:

(1) Shall arrest and commit to prison all persons who break the peace, or attempt to break it, and all persons guilty of public offenses;

(2) Shall defend the county against those who, by riot or otherwise, endanger the public peace or safety;

(3) Shall execute the process and orders of the courts of justice or judicial officers, when delivered for that purpose, according to law;

(4) Shall execute all warrants delivered for that purpose by other public officers, according to the provisions of particular statutes;

(5) Shall attend the sessions of the courts of record held within the county, and obey their lawful orders or directions;

(6) Shall keep and preserve the peace in their respective counties, and quiet and suppress all affrays, riots, unlawful assemblies and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they may call to their aid such persons, or power of their county as they may deem necessary.

[1965 c 92 § 1; 1963 c 4 § 36.28.010. Prior: (i) 1891 c 45 § 1; RRS § 4157. (ii) Code 1881 § 2769; 1863 p 557 § 4; 1854 p 434 § 4; RRS § 4168.]

RCW 36.28.011
Duty to make complaint.

In addition to the duties contained in RCW 36.28.010, it shall be the duty of all sheriffs to make complaint of all violations of the criminal law, which shall come to their knowledge, within their respective jurisdictions.

[1963 c 4 § 36.28.011. Prior: 1955 c 10 § 1. Cf. Code 1881 § 2801, part; 1869 p 264 § 311, part; RRS § 4173, part.]

County Treasurer

RCW 36.29.010
General duties.

The county treasurer:

(1) Shall receive all money due the county and disburse it on warrants issued and attested by the county auditor and electronic funds transfer under RCW 39.58.750 as attested by the county auditor;

(2) Shall issue a receipt in duplicate for all money received other than taxes; the treasurer shall deliver immediately to the person making the payment the original receipt and the duplicate shall be retained by the treasurer;

(3) Shall affix on the face of all paid warrants the date of redemption or, in the case of proper contract between the treasurer and a qualified public depositary, the treasurer may consider the date affixed by the financial institution as the date of redemption;

(4) Shall endorse, before the date of issue by the county or by any taxing district for whom the county treasurer acts as treasurer, on the face of all warrants for which there are not sufficient funds for payment, "interest bearing warrant." When there are funds to redeem outstanding warrants, the county treasurer shall give notice:

(a) By publication in a legal newspaper published or circulated in the county; or

(b) By posting at three public places in the county if there is no such newspaper; or

(c) By notification to the financial institution holding the warrant;

(5) Shall pay interest on all interest-bearing warrants from the date of issue to the date of notification;

(6) Shall maintain financial records reflecting receipts and disbursement by fund in accordance with generally accepted accounting principles;

(7) Shall account for and pay all bonded indebtedness for the county and all special districts for which the county treasurer acts as treasurer;

(8) Shall invest all funds of the county or any special district in the treasurer's custody, not needed for immediate expenditure, in a manner consistent with appropriate statutes. If cash is needed to redeem warrants issued from any fund in the custody of the treasurer, the treasurer shall liquidate investments in an amount sufficient to cover such warrant redemptions; and

(9) May provide certain collection services for county departments.

The treasurer, at the expiration of the term of office, shall make a complete settlement with the county legislative authority, and shall deliver to the successor all public money, books, and papers in the treasurer's possession.

Money received by all entities for whom the county treasurer serves as treasurer must be deposited within twenty-four hours in an account designated by the county treasurer unless a waiver is granted by the county treasurer in accordance with RCW 43.09.240.

[2005 c 502 § 2; 2002 c 168 § 4; 2001 c 299 § 4; 1998 c 106 § 3; 1995 c 38 § 4; 1994 c 301 § 7; 1991 c 245 § 4; 1963 c 4 §36.29.010 . Prior: (i) 1893 c 104 § 1; Code 1881 § 2740; 1863 p 553 § 3; 1854 p 427 § 3; RRS § 4109. (ii) Code 1881 § 2742; 1863 p 553 § 5; 1854 p 427 § 5; RRS § 4110. (iii) Code 1881 § 2743; 1863 p 553 § 6; 1854 p 427 § 6; RRS § 4111. (iv) 1895 c 73 § 4; Code 1881 § 2744; 1863 p 553 § 7; 1854 p 427 § 7; RRS § 4113. (v) Code 1881 § 2745; 1863 p 553 § 8; RRS § 4114. (vi) 1893 c 104 § 3; Code 1881 § 2748; 1863 p 554 § 11; 1854 p 428 § 11; RRS § 4120. (vii) Code 1881 § 2750; 1863 p 554 § 13; 1854 p 428 § 13; RRS § 4121. (viii) 1895 c 73 § 3; RRS § 4122.]

RCW 36.29.020
Custodian of moneys -- Investment of funds not required for immediate expenditures -- Service fee.

The county treasurer shall keep all moneys belonging to the state, or to any county, in his or her own possession until disbursed according to law. The county treasurer shall not place the same in the possession of any person to be used for any purpose; nor shall he or she loan or in any manner use or permit any person to use the same; but it shall be lawful for a county treasurer to deposit any such moneys in any regularly designated qualified public depositary. Any municipal

corporation may by action of its governing body authorize any of its funds which are not required for immediate expenditure, and which are in the custody of the county treasurer or other municipal corporation treasurer, to be invested by such treasurer. The county treasurer may invest in savings or time accounts in designated qualified public depositaries or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: PROVIDED, Five percent of the earnings, with an annual maximum of fifty dollars, on each transaction authorized by the governing body shall be paid as an investment service fee to the office of the county treasurer or other municipal corporation treasurer when the earnings become available to the governing body: PROVIDED FURTHER, That if such investment service fee amounts to five dollars or less the county treasurer or other municipal corporation treasurer may waive such fee.

If in the judgment of the governing body of the municipal corporation or the county treasurer it is necessary to redeem or to sell any of the purchased securities before their ultimate maturity date, the governing body may, by resolution, direct the county treasurer pursuant to RCW 36.29.010(8) to cause such redemption to be had at the redemption value of the securities or to sell the securities at not less than market value and accrued interest.

Whenever the funds of any municipal corporation which are not required for immediate expenditure are in the custody or control of the county treasurer, and the governing body of such municipal corporation has not taken any action pertaining to the investment of any such funds, the county finance committee shall direct the county treasurer, under the investment policy of the county finance committee, to invest, to the maximum prudent extent, such funds or any portion thereof in savings or time accounts in designated qualified public depositaries or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: PROVIDED, That the county treasurer shall have the power to select the specific qualified financial institution in which the funds may be invested. The interest or other earnings from such investments or deposits shall be deposited in the current expense fund of the county and may be used for general county purposes. The investment or deposit and disposition of the interest or other earnings

therefrom authorized by this paragraph shall not apply to such funds as may be prohibited by the state Constitution from being so invested or deposited.

[1999 c 18 § 4; 1997 c 393 § 4; 1991 c 245 § 5; 1984 c 177 § 7; 1982 c 73 § 1; 1980 c 56 § 1; 1979 c 57 § 1; 1973 1st ex.s. c 140 § 1; 1969 ex.s. c 193 § 26; 1967 c 173 § 1; 1965 c 111 § 2; 1963 c 4 § 36.29.020. Prior: 1961 c 254 § 1; 1895 c 73 § 1; RRS § 4112.]

County Clerk

RCW 36.23.030
Records to be kept.

The clerk of the superior court at the expense of the county shall keep the following records:

(1) A record in which he or she shall enter all appearances and the time of filing all pleadings in any cause;

(2) A docket in which before every session, he or she shall enter the titles of all causes pending before the court at that session in the order in which they were commenced, beginning with criminal cases, noting in separate columns the names of the attorneys, the character of the action, the pleadings on which it stands at the commencement of the session. One copy of this docket shall be furnished for the use of the court and another for the use of the members of the bar;

(3) A record for each session in which he or she shall enter the names of witnesses and jurors, with time of attendance, distance of travel, and whatever else is necessary to enable him or her to make out a complete cost bill;

(4) A record in which he or she shall record the daily proceedings of the court, and enter all verdicts, orders, judgments, and decisions thereof, which may, as provided by local court rule, be signed by the judge; but the court shall have full control of all entries in the record at any time during the session in which they were made;

(5) An execution docket and also one for a final record in which he or she shall make a full and perfect record of all criminal cases in which a final judgment is rendered, and all civil cases in which by any order or final judgment the title to real estate, or any interest therein, is in any way affected, and such other final judgments, orders, or decisions as the court may require;

(6) A record in which shall be entered all orders, decrees, and judgments made by the court and the minutes of the court in probate proceedings;

(7) A record of wills and bonds shall be maintained. Originals shall be placed in the original file and shall be preserved or duplicated pursuant to RCW 36.23.065;

(8) A record of letters testamentary, administration, and guardianship in which all letters testamentary, administration, and guardianship shall be recorded;

(9) A record of claims shall be entered in the appearance docket under the title of each estate or case, stating the name of each claimant, the amount of his or her claim and the date of filing of such;

(10) A memorandum of the files, in which at least one page shall be given to each estate or case, wherein shall be noted each paper filed in the case, and the date of filing each paper;

(11) Such other records as are prescribed by law and required in the discharge of the duties of his or her office.

[2002 c 30 § 1; 1987 c 363 § 3; 1967 ex.s. c 34 § 2; 1963 c 4 § 36.23.030. Prior: (i) 1923 c 130 § 1; Code 1881 § 2179; 1863 p 417 § 6; 1854 p 366 § 6; RRS § 75. (ii) 1917 c 156 § 2; RRS § 1372. (iii) 1917 c 156 § 57; Code 1881 § 1384; 1863 p 219 § 118; 1860 p 181 § 85; RRS § 1427. (iv) 1917 c 156 § 72; Code 1881 § 1411; 1863 p 221 § 130; 1860 p 183 § 97; RRS § 1442.]

Auditor

RCW 36.22.010
Duties of auditor.

The county auditor:

(1) Shall be recorder of deeds and other instruments in writing which by law are to be filed and recorded in and for the county for which he or she is elected;

(2) Shall keep an account current with the county treasurer, charge all money received as shown by receipts issued and credit all disbursements paid out according to the record of settlement of the treasurer with the legislative authority;

(3) Shall make out and transmit to the state auditor a complete statement of the state fund account with the county for the past fiscal year certified by his or her certificate and seal, immediately after the completion of the annual settlement of the county treasurer with the legislative authority. The statement must be available to the public;

(4) Shall make available a complete exhibit of the prior-year finances of the county including, but not limited to, a statement of financial condition and financial operation in accordance with standards developed by the state auditor. This exhibit shall be made available after the financial records are closed for the prior year;

(5) Shall make out a register of all warrants legally authorized and directed to be issued by the legislative body at any regular or special meeting. The auditor shall make the data available to the county treasurer. The auditor shall retain the original of the register of warrants for future reference;

(6) As clerk of the board of county commissioners, shall:

Record all of the proceedings of the legislative authority;

Make full entries of all of their resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county;

Record the vote of each member on any question upon which there is a division or at the request of any member present;

Sign all orders made and warrants issued by order of the legislative authority for the payment of money;

Record the reports of the county treasurer of the receipts and disbursements of the county;

Preserve and file all accounts acted upon by the legislative authority;

Preserve and file all petitions and applications for franchises and record the action of the legislative authority thereon;

Record all orders levying taxes;

Perform all other duties required by any rule or order of the legislative authority.

[1995 c 194 § 1; 1984 c 128 § 2; 1963 c 4 § 36.22.010. Prior: 1955 c 157 § 9; prior: (i) Code 1881 § 2707; 1869 p 310 §§ 1, 2, 3; 1863 p 549 §§ 1, 2, 3; 1854 p 424 §§ 1, 2, 3; RRS § 4083. (ii) Code 1881 § 2709; RRS § 4085. (iii) Code 1881 § 2711; RRS § 4088. (iv) 1893 c 119 § 2; Code 1881 § 2712; 1869 p 311 § 6; 1863 p 550 § 6; 1854 p 425 § 6; RRS § 4089. (v) 1893 c 119 § 3; Code 1881 § 2571; RRS § 4090. (vi) 1893 c 119 § 4; Code 1881 § 2713; 1869 p 311 § 7; 1867 p 130 § 1; RRS § 4091. (vii) 1893 c 119 § 5; Code 1881 § 2714; 1869 p 311 § 8; 1867 p 131 § 2; RRS § 4092. (viii) 1893 c 119 § 7; Code 1881 § 2718; 1869 p 312 § 13; RRS § 4095. (ix) Code 1881 § 2719; RRS § 4098. (x) 1893 c 119 § 8; Code 1881 § 2720; RRS § 4099.]