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TESTIMONY

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GENERAL GUIDELINES FOR CHARTER GOVERNMENTS

TESTIMONY BEFORE THE JEFFERSON COUNTY CHARTER COMMISSION

By David Stokes

Restrict Size of Council:

1. The Law of 1/N states that the larger the size of the legislative body you have, the greater the spending levels. Although there are exceptions, this is a widely accepted rule of public choice economics.¹
2. Five or seven councilmembers should be target for Jefferson County.
3. The workload and salary should be considered when setting council size. Jefferson County has a much higher percentage of unincorporated population than other charter counties (74 percent).
4. Some at-large districts may be considered, such as Jackson County, Kansas City, or Saint Louis city. Independently elected county officials (see below) are probably preferable to that.

Maintain at least some other countywide elected officials:

1. The U-shaped spending theory advanced by University of Chicago professors Jacob Gersen and Christopher Berry states that local governments can have both too few and too many elected officials.² This interesting new theory has, I believe, a great deal of validity. In short, the levels of spending increase with too few non-legislative elected officials, decrease as the number of non-legislative elected officials increases, and then increases again with the introduction of too many non-legislative elected officials. The reasoning for this is that voters face difficulty in properly assigning credit, or blame, in cases where there are a very small or very large number of elected officials.
2. The offices of prosecuting attorney, sheriff, assessor, and treasurer should be kept as elected positions. These officials either make policy decisions or serve as important checks on other offices.
3. The offices of public administrator, recorder of deeds, circuit clerk and collector of revenue should be changed to appointed positions, with circuit judges having

*David Stokes is a
policy analyst for the
Show-Me Institute.*

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input on PA and CC. These offices generally perform duties as established and do not make policy decisions.

4. For the position of county clerk, Jefferson County should follow the example of Saint Charles and alter the position's duties so that it becomes an elected elections chief. It is imperative to have an elections official who does not answer to the other local officials, and is independently responsible to the voters (or to a board appointed by the governor, a mechanism that is not recommended here).
5. Partisan elections should be kept (except for judges). In larger local governments, partisan elections allow voters a simple check on other officials.

Restrict power of individual councilmembers:

1. No filibuster.
2. Lack of authority to introduce spending bills is a dramatic but effective method to control spending. It is used in Saint Louis County, where all spending requests must come from the county executive.
3. Legislators should not be able to kill legislation in committee.
4. Remember that when setting the requirement for the number of meetings each year, a council can always meet more often than needed, but not less than required. Jackson and Saint Louis counties meet 48 times per year, and Saint Charles meets 24 times per year. Saint Louis city meets weekly, with exceptions (work sessions and committee meetings not included). For Jefferson County, I recommend the Saint Charles total of 24 meetings per year.
5. The county executive should have veto powers over bills, and the council should have the authority to override a veto.
6. The council chair should have enough power to effectively run council business, but not too much power to dominate, provided council size is kept small. The council chair can also have a higher budget, because of the higher workload.
7. Bills passed over the objection of county boards (such as approving a zoning change rejected by the Planning Commission) should require a supermajority for passage, like a veto override.

Restrict power of county executive:

1. No authority to make any expenditure without council approval.
2. The county auditor should report to, and be appointed by, the council, not the executive.
3. All department heads and commission appointments require council approval.
4. The council must have sufficient staff to perform independent research and analysis in case of disagreements with the executive office.
5. The Department of Administration should direct most day-to-day county business, and its employees should be part of the civil service.
6. The council should have subpoena power to conduct investigations in extraordinary circumstances.

Judiciary:

1. Jefferson County should consider adopting a nonpartisan court plan system. This would be accomplished as part of a charter, so it can be left aside for now. Judges should also have at least a voice in the selection of circuit clerk and public administrator.

County employment:

1. A merit-based civil service system shall be the basis of employment within Jefferson County. This must be clearly laid out in the charter.
2. The civil service system should not include department heads, nor a base level of staff for the council, county executive, and other elected officials.

Intergovernmental cooperation and partnerships:

1. Nothing in the charter should prohibit or limit the ability of current and future elected officials to enter into these types of arrangements, including partnering with other governmental entities, cross-boundary taxing districts, government outsourcing, the use of public-private partnerships, and more.

Eminent domain:

1. Most of the issues regarding eminent domain takings are governed by state law, and will be whether or not a charter is adopted. However, this commission should consider placing into the charter a strict interpretation of the uses of eminent domain in order to limit its uses within Jefferson County as much as possible.

Tax incentives and regulatory controls:

1. Similar to eminent domain, the commission may wish to consider requiring supermajority votes on issues such as tax increment financing and other tax abatements.
2. In a related issue, the commission may wish to consider putting strict limitations on future regulatory and planning actions that would affect the historic uses of property and constitutional rights of property owners. For example, planning ordinances that might conflict with agriculture uses could require a supermajority vote of the council.
3. I realize that these statements might conflict with earlier recommendations not to limit future officials in establishing government partnerships. However, eminent domain and land use laws strike at the heart of the freedom of the people of Jefferson County. Intergovernmental cooperation and public-private partnerships are merely methods of providing services. That is an important distinction.

Government transparency:

1. Bills should take at least two meeting to be passed, except in emergencies. If the new council meets weekly, it should be three meetings.

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2. A public comment period should be held before all votes, including veto override attempts.
3. Roll call votes should be required on every bill at final passage.
4. Rules should not allow substitute legislation to be both adopted and finally passed during the same meeting.
5. Bills passed more quickly because of emergency status should require unanimous passage.
6. The charter should require council meetings to be held at a time and place convenient for the public to attend, i.e., in the evening.
7. Exceeding the mandates of the sunshine laws, rather than mere compliance, should be the goal.

For more of the Show-Me Institute's research about Missouri ethanol and energy, visit www.showmeinstitute.org.

NOTES

- 1 Weingast, Barry R., Kenneth A. Shepsle, and Christopher Johnsen, "The Political Economy of Benefits and Costs: A Neoclassical Approach to Distributive Politics," *Journal of Political Economy*, vol. 89, no. 4, 1981.
- 2 Gersen, Jacob E., and Christopher R. Berry, "The Fiscal Consequences of Electoral Institutions" John M. Olin Law and Economics Working Paper No. 344, University of Chicago, June 2007.



7777 BONHOMME AVENUE
SUITE 2150
SAINT LOUIS, MO 63105

WWW.SHOWMEINSTITUTE.ORG