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TESTIMONY

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GENERAL GUIDELINES FOR CHARTER GOVERNMENTS

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. While there are exceptions, this is a widely accepted rule of public choice economics.¹
2. Five or seven councilmembers should be target for Franklin County. Five would likely work just fine. The salary should be set high enough to reasonably compensate for their time and effort.
3. Workload and salary should be considered when setting council size. 56 % of Franklin County lives in an unincorporated area, while 44% lives in cities or towns. If you have too many councilmembers, there will be a large discrepancy in the workload for each member. People who represent all municipalities will have far less work than those who represent mostly unincorporated areas.
4. Some at-large districts may be considered, such as Jackson County, Kansas City or St. 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 of Gersen and Berry states that local governments can have both too few and too many elected officials.² This is a very interesting new theory that I believe has 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 as you have too many non-legislative elected officials. The reasoning for this is voter difficulty in properly assigning credit, or blame, in cases where there are a very small or very large number of elected officials.
2. 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.

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The available studies offer a genuine mixed bag, with charters slightly outperforming traditional public schools in some areas, traditional public schools slightly outperforming charters in other areas, and no apparent difference in performance in the remaining number of cases.

3. Public Administrator, Recorder of Deeds, Highway Engineer, Circuit Clerk and Collector of Revenue should be changed to appointed positions, with circuit judges having input on PA and CC. These offices generally perform duties as established and do not make policy decisions.
4. County Clerk should follow the example of St. Charles and become the 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 a board appointed by the governor, which 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. Legislation should not be able to be killed 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. 48 meetings for Jackson and St. Louis Co., 24 for St. Charles. St. Louis City meets weekly, with exceptions. (Work sessions and committee meetings not included.) I recommend the St. Charles total.
5. County Executive should have veto powers over bills, and council the authority to override veto with a supermajority vote.
6. Council Chair should have enough power to effectively run council business, but not too much power to dominate, provided council size is kept small. Council Chair can also have a higher budget or salary because of the higher work load.
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. 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. Council must have sufficient staff to perform independent research and analysis in case of disagreements with the executive office.
5. Department of Administration should direct most day-to-day county business, and their employees should be civil service.
6. Council should have subpoena power to conduct investigations in extraordinary circumstances.



Judiciary

1. Franklin County should consider going to non-partisan court plan system. This would not be done as part of a charter, so it can be left aside for now. Judges should also have at least a voice in selection of circuit clerk and public administrator.

County employment

1. A merit-based, civil service system shall be the basis of employment within Franklin 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 rights 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 laws regarding issues eminent domain takings are governed by state law, and will be whether a charter is adopted or not. However, this commission should consider putting a strict interpretation of the uses of eminent domain into the charter in order to limit its uses within Franklin 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 right of property owners. For example, planning ordinances that might conflict with agriculture uses could require a supermajority vote of the council.
3. I realize these statements might conflict with the recommendations not to limit future officials in the previous section on government partnerships. However, eminent domain and land use laws strike at the heart of the freedom of the people of Franklin 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.

Average performance in Saint Louis seems better than Kansas City in the lower grades, but for students at the eighth-grade level and higher, Kansas City students in both charter and traditional public schools achieve higher average performance than Saint Louis students.



2. Public comment period should be before all votes, including veto override attempts.
3. Roll call votes should be required on every bill at final passage.
4. Substitute legislation should not be allowed to be both adopted and finally passed during the same meeting.
5. Bills passed more quickly due to 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. night.
7. Exceeding the mandates of the Sunshine laws should be the goal, not merely compliance.

NOTES

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



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