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Chapter 45

The Future Of Local Government

It appears to this longtime observer of local government in Washington State that the future of local government in this state will involve two types of changes. First, the Legislature will enact legislation granting existing types of local governments increased flexibility to provide public services and facilities. Second, the Legislature will enact enabling legislation authorizing the creation of new types of special purpose districts to provide limited ranges of public facilities and services. Presumably, these changes will occur on a gradual, piecemeal basis as they have in the past.

The most significant changes in the structure of local government in Washington State have occurred as follows:

- Original State Constitution. The original State Constitution approved by voters in 1889 established a new base for local governments. This included: (1) Requiring a uniform system of county government to be established throughout the State (Article XI, Sections 4 & 5); (2) replacing an era of special legislation dictating all details about each separate city with legislative control being exercised by general legislation (Article II, Section 28 and Article IX, Section 10); (3) granting counties and cities home rule police regulatory powers (Article XI, Section 11); and (4) allowing more populous cities greater flexibility to provide for their own governments by adopting charters (Article XI, Section 10).
- Gradual emergence of special purpose districts. Legislation was enacted after statehood allowing more and more different types of special purpose districts to

be created to provide a limited range of public services and facilities. This began in the middle 1890's, and has continued to the present day. The original State Constitution contained very few details about special purpose districts other than school districts (Article IX). Special purpose districts could only be created by following incorporation procedures detailed in general state law (Article XI, Section 10).

- Regional local governments. As discussed in Chapter 19, counties were the original regional local governments in Washington. However, legislation has been enacted allowing regional special purpose districts to provide services and facilities over a relatively large area. This began in the early 1900's with metropolitan park districts and port districts and has continued to the present day. Initially, these regional special purpose districts were independent governments, with governing bodies composed of officials directly elected to office. More recently, these regional special purpose districts have been federations of other local governments with governing bodies composed of officials of these other local governments servicing in *ex officio* capacities, or appointed to office by these other local governments to represent their interests in the new government.
- Changes shortly after World War II. A number of significant changes were made shortly after World War II, including: (1) Voter approval of Amendment 21 in 1948, allowing any county to adopt a regular county charter; (2) voter approval of Amendment 23 in 1948, allowing larger counties to adopt another type of charter combining the major city with the county; (3) enactment of legislation inserting the broad grant of police power regulatory contained in the original State Constitution (Article XI, Section 11) into county statutes. The first use of these new authorities occurred in 1968 when King County voters approved the first regular county charter in the State.
- Changes in 1967. Significant local government legislation was enacted in 1967. This includes: (1)

The Interlocal Cooperation Act; (2) what is called the county general services act, allowing counties to provide water and sewer systems; (3) creation of boundary review boards; and (4) code city statutes.

- Combined city-county charters. State voters approved Amendment 58 in 1972, fundamentally altering Article XI, Section 16. This altered the nature of a combined city-county charter, by: (1) Making this provision applicable to every county; (2) making this provision effective without enabling legislation; and (3) expanding the nature of the charter to control every aspect of local government within the county, not just combining the largest city into the county. No county has ever adopted a combined city/county charter.

Apart from the fundamental changes contained in the original State Constitution, most changes to the structure of local government have occurred gradually and on a piecemeal basis.

A description follows of possible changes that could be made to the structure of local government in Washington State.

Modest Changes

Changing the structure of local government will most likely involve continuing the recent trend of making modest changes on a piecemeal basis.

The history of local government in Washington State has been searching for greater flexibility by:

- Authorizing the formation of new types of special purpose districts to provide services and facilities; and
- Providing new mechanisms for the joint provision of services and facilities by local governments.

Most of these efforts have been piecemeal without fundamental reform of the structure of local government. This has resulted in a very complex web of local government in Washington State, with layer upon layer of different types of local governments being placed on top

of each other. Local governments have been granted additional taxing authority and other methods of financing services and facilities.

The search for flexibility has primarily focused on finding new mechanisms to provide regional facilities and services of a relatively large geographic area encompassing a number of existing units of local government. Enhanced authority was provided for local governments to enter into contracts and agreements for the provision of these services and facilities. New special purpose districts have been authorized to provide regional services and facilities. The new types of regional special purpose districts initially were traditional local governments with governing bodies composed of separately elected officials. More recently, these regional special purpose districts have been federations of existing local governments, with governing bodies composed of either of some officials of "parent" local governments serving in *ex officio* capacities, or persons appointed by the "parent" local governments to represent their interests on the governing body of the federation. Granting counties additional regional responsibilities would also constitute a likely modest change in the scheme of local government.^a

Most recently, the search for flexibility has focused on authorizing geographically smaller special purpose districts that are subdivisions of a single larger local government to provide additional levels of services and facilities on a neighborhood or community level. The governing body of the new special purpose district is composed of the officials of a "parent" county or city acting in *ex officio* capacities.^b

Although this new search for mechanisms to provide more localized services and facilities on a neighborhood or community-wide basis seems to be moving in the opposite direction than the more traditional search for finding mechanisms to provide regional facilities and services, both reflect a need for additional flexibility.

Piecemeal change to the structure of local government is the least disruptive and least controversial method of change. Taking piecemeal actions is more acceptable to vested interests than taking more fundamental changes to the structure of local government. The

a A more detailed discussion of regional government is found in Chapter 19.

b A more detailed discussion of these subdivisions is found in Chapter 27.

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Legislature merely responds to the crisis of the moment and crafts a narrow fix with little application to the rest of the State. This primarily has meant responding to the pressing needs of the central Puget Sound area. Most of the focus in this region has been to layer different type of special purpose districts on top of each other providing part of the new transportation network and to grant counties and cities additional taxing authority to finance transportation improvements.

Moderate Reforms

A large number of moderate reforms could be taken to alter the structure of local government in Washington State. Apart from reforms relating to planning for and providing transportation facilities and services in the central Puget Sound area, it is somewhat unlikely that the Legislature enact moderate reforms. No constituency appears to exist at present to support moderate reforms.

As discussed in Chapter 43, the Legislature has begun focusing its attention on planning for and providing transportation facilities and services in the central Puget Sound area. It is quite possible that these reforms will be enacted during the 2007 Legislative Session. Among others, Senators Mary Margaret Haugen, Ed Murray, and Dan Swecker, and Representatives Judy Clibborn and Fred Jarrett, are leading these efforts.

ENACTED:
SRB 1396,
2007
ESRB 1858,
2007

Other possible moderate reforms, in no order of importance, include:

- Townships. The State Constitution requires the Legislature to enact legislation providing for an alternative form of county government by organizing into townships. These laws no longer exist.

A new form of township organization could be provided, with townships being multi-purpose special purpose districts that provide local services and facilities on a neighborhood or community level. Virtually no constitutional restrictions exist on the organization of a county into townships, other than voters of the entire county must approve a ballot proposition authorizing this organization. Townships would exist in unincorporated areas outside of cities,

but some form of townships also could exist in cities. Certain types of special purpose districts could be united into townships.

- City classes. Legislation could be enacted eliminating second class cities, and possibly towns, and converting these municipalities to code cities. This would simplify city statutes and provide more clear home rule powers to cities.
- Villages. Legislation could be enacted allowing villages to be formed with the ability to provide a modicum of "city" services and facilities but without many "city" powers and responsibilities. A village could be a transitional form of government before an area incorporates into a city. Less populous cities, especially those with extreme financial difficulties could reorganize into villages with the possibility of including some of the surrounding unincorporated areas. This would still afford these areas a sense of community and the ability to provide a modicum of "city" services and facilities.
- Common local government procedures. General legislation could be enacted providing common procedures for different types of local government to take actions. Existing laws for each different type of local government tend to be complete, each with its own procedures. An alternative would be to enact common procedures for different types of local government to take the same actions. Common procedures could be provided for issuing revenue bonds, annexing territory, merging or consolidating, adopting budgets, and other matters.
- Regular charter counties. The Constitution could be amended to more fully clarify the procedure by which counties adopt regular county charters. Confusion could be reduced by altering terminology found in the existing constitutional provision, including the term "board of freeholders". An additional optional procedure could be provided for counties to adopt regular county charters, without using the "board of

freeholder" procedure. The existing process is quite lengthy and frequently the "need" for making the change recedes before the charter can be presented to voters for their approval or rejection. Several alternative regular county charters could be developed, any one of which could be directly referred to county voters for their approval or rejection. As an alternative, a streamlined procedure could be authorized for voters to approve changes to their structures without using the freeholder procedure.

- New procedures to alter noncharter county government. New procedures could be authorized allowing the structure of county government to be altered without electing a board of freeholders or the State drafting alternative county charters. HJR 4212, which was introduced in the 2005 Legislative Session, provides such a procedure for ballot propositions to be placed before county voters to either: (1) Alter the structure of government for a county, much like a county charter could alter a county's structure of government; or (2) alter the structure of government between adjacently located counties by providing for a single official to be elected or appointed for these counties, rather than a separate official for each county.
- Consolidating special purpose districts. Legislation could be enacted, simplifying the procedure by which special purpose districts consolidate or merge. Simple changes could be made, such as allowing a consolidated special purpose district to have a governing body with more members to avoid existing officials losing their positions. Fire protection district laws have been amended to provide this additional flexibility. Another alternative would be to allow the county legislative authority to redraw the boundaries of two or more of the same type of special purpose district, if the changes are approved by the governing bodies of the affected special purpose districts.

More Fundamental Reforms

Fundamental reform of local governments has not occurred since statehood. However, some existing laws could be used to provide fundamental reform of local governments within a county. None of these laws have been used to make these fundamental changes. It is quite unlikely that fundamental structural changes will be made to local governments.

As discussed in Chapter 37, Amendment 58 (Article XI, Section 16) provides a mechanism to reforming the structure of local government in any county by adopting what is called a combined city/county charter. Reforms in the charter could be slight or comprehensive. Changes could be made countywide, or less than countywide, although the charter must be approved by the voters of the entire county. Although a number of attempts have been made to adopt a combined city/county charter, no county has successfully adopted such a charter.

As discussed in Chapter 19, the Local Government Study Commission issued its recommendations in January of 1988, proposing two separate procedures to modify local government. These proposals were contained in a constitutional amendment and implementing legislation. Extraordinary flexibility was provided by allowing changes to the fundamental structure of local government to be made within a relatively small geographic area, a countywide area, or a greater than countywide area. Although the constitutional amendment was not adopted, the Legislature eventually enacted legislation authoring a modification of one of the two recommended procedures. However, this procedure has never been used and it is not clear how significant these changes could be made without a constitutional amendment authorizing this procedure. *

Although strong arguments may be made for the necessity of fundamentally reforming the local government structure, it seems unlikely that these reforms will occur. The political climate does not seem ready to accommodate fundamental reform of local government for a number of reasons. First, political power is widely diffused among the many different types of local governments and these local governments possess considerable influence in the Legislature. It is easier for the Legislature to create new and varied mechanisms to

provide facilities and services, rather than fundamentally altering the structure of local government. Second, a general distrust of government exists. Voters probably would not trust any proposed reforms. Third, dynamic leadership with a vision of the future is needed before fundamental reforms may be made. However, little interest or even recognition of the need for change seems to exist among legislators and in the executive branch. Their attention is focused on other issues. Fourth, local officials with a commitment to change and a vision of the future are needed. Most local officials seem content to focus their attention and efforts on working within the limitations of the current system rather than focusing on fundamental reform.

Fundamental change in the structure of local government could be achieved by:

- Rewriting the local government article of the State Constitution (Article XI). Changes could include: (1) More clearly granting counties and cities broad home rule powers; (2) clarifying how county boundaries are altered by two or more counties consolidating or transferring territory from one county to another county; and (3) allowing the Legislature to enact what amounts to special legislation creating new regional governments in any area of the State.
- Revising the combined city/county provisions of Article XI, Section 16. The procedure could be clarified. Terminology could be altered. This includes changing the "board of freeholders" to a less confusing term such as a "citizen review board". This includes the name of the charter from a "combined city/county" charter to a more descriptive charter such as a "local government home rule charter".
- The basic proposals of the Local Governance Study Commission could be adopted. These proposals allowed maximum flexibility for citizens of any area in the State to craft a scheme of local government more closely fitting their current needs. Anyone interested in providing new mechanisms to fundamentally alter the structure of local government should closely review these proposals.

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