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HOME RULE IN WAYNE COUNTY: II

Separation of Powers and Reorganization under the Wayne County Charter

This is the second in a series of Council Comments exploring the effects of home rule on Wayne County, the only county to adopt a charter. This series has been developed in part to assist residents of other counties who may be considering county reorganization, by describing the effects of reorganization on Michigan's most urban county. The first issue described the various form of county organization available in Michigan, and the conditions in Wayne County which led finally to the adoption of a Wayne County Charter. This issue will examine portions of the adopted charter that resulted in county reorganization and the separation of powers between the redefined legislative and executive branches, recognizing that organization affects the way decisions are made, coordinated, and implemented. Future issues will investigate the system of checks and balances that was instituted in Wayne County and the financial condition of the county, and will draw some conclusions about the effectiveness of home rule in Wayne County. The issues in this series summarize information contained in a report entitled **A Review of the Effects of Home Rule on Wayne County**, which is available upon request.

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Charter Adoption. Significant managerial, operational, and financial problems have existed in Wayne County for decades. There had been efforts to obtain home rule for Wayne County since the 1920s, but it was not until the 1966 Charter County Act, made possible by a provision of the 1963 Michigan Constitution, that county home rule could occur. Wayne County voters defeated efforts to establish charter commissions in 1968 and 1972, but by the late 1970s it was clearly necessary to replace the antiquated governmental machinery that prevented effective administration. The state attempted in 1979 to audit the county's books, but found them unauditable. Deficits were uncontrolled. The county's inability to meet its October 1979 payroll was the culmination of a series of crises which resulted in a 1980 amendment to the Michigan Charter County Act and election of 27 Wayne County charter commissioners.

Those charter commissioners were required by the amendment to Public Act 293 to prepare two charters, which were to be identical except that one contain an elected county executive with veto powers and the other contain a chief administrator appointed to a four-year term by the county board.

The proposed charters were submitted to the governor as required by law, and were approved by him in spite of reservations expressed by the state attorney general.

On November 3, 1981, Wayne County voters adopted the version with the stronger, elected form of county executive, and on November 2, 1982, elected the first county executive. The Wayne County Charter is the only county charter that has been adopted in Michigan. It was prepared and adopted under an act that was amended to treat the state's oldest, largest, most urban and most troubled county differently than all other Michigan counties.

A major purpose of the charter was to redefine the executive and legislative branches of Wayne County government and to specify the scope of powers of the chief executive officer (CEO) and his or her relationship to the legislative branch. The county board of commissioners, reduced in number from 27 to 15, was removed from the administration of executive functions and forced to act as a policy-making and review body, and the elected three-member board of auditors was eliminated. The administration of executive functions not headed by independently elected officials was assigned to a single individual who could be held accountable for results.

The Legislative Board of County Commissioners. Previous to charter implementation, the county board had exercised both legislative and executive powers. The new charter limited the board's powers to those provided by state law and those traditionally in the legislative domain, primarily ordinance adoption, appropriations, and oversight. The charter did grant limited appointment powers to the board; it could appoint its own staff, and the members of the board of county canvassers, the metropolitan airport zoning board of appeals, the planning and development commission, and the county election board. In addition, the county board was granted authority to approve or reject the chief executive's reorganization plan; make purchasing policy; override vetos by a 2/3 majority; approve or reject appointments by the CEO (except the chief financial officer); and approve, amend, or reject rules or regulations issued by any department or officer of the county. Members and employees of the board were prohibited from direct or indirect interference in the conduct of any executive department.

The board of commissioners directs the activities of four staff agencies: central services, public information, auditor general, and legislative research. Only the auditor general is referenced in the charter.

The Executive Branch. The chief executive officer was to supervise, coordinate, direct and control all county functions except as otherwise provided by law or charter. The CEO's ability to perform traditional executive functions was limited by the existence of other directly elected executive branch officials, including a sheriff, county clerk, county treasurer, register of deeds, and prosecuting attorney, whose authority and responsibilities were mandated in state law and protected in the Charter Counties Act, and the drain commissioner, whose elective position was not required by Act 293 but was included In the Wayne County Charter.

Reorganization. The charter provided the guidelines for reorganizing Wayne County government to establish accountability and to provide direction and control of county functions. Although the executive branch continued to contain departments headed by independently elected officials, the CEO was enabled to reorganize the remaining executive functions into a structure that would be responsive to executive direction. The charter itself established departments of corporation counsel with a division of human relations; personnel with divisions of labor relations, employment planning, and civil service commission; management and budget with divisions of assessment and equalization, and purchasing; health with a division of environmental protection; public works; road commission; senior citizens services; and retirement commission. Of these, human relations, civil service commission, assessment and equalization, senior citizens, and the retirement commission were absolutely protected; the powers and duties of all others could be reorganized. The inclusion of specific departments in the charter reflected the influence of special interest groups on the charter commission. An alternative charter approach would include service objectives for the executive without imposing specific structural requirements.

Staff Agencies. The Wayne County Charter directs the chief executive to submit a reorganization plan to the county commission within 90 days of assuming office, but exempts those departments headed by other elected officials from the plan. The plan submitted by the first CEO included four staff agencies (corporation counsel, information processing, human resources, and management and budget) and two line agencies (public services and health and community services) reporting directly to the CEO.

Establishment of the corporation counsel's office in the executive branch assured that the county officer responsible for interpreting state law and charter provisions applicable to county organization and authority was appointed by the CEO. The appointment of the elected prosecuting attorney to be the corporation counsel helped to consolidate the executive branch. The first charter corporation counsel established as policy that his office would not initiate action against one county agency by another, but would instead explore in a legal opinion the legal issues involved in the dispute. In 1984, in one of many efforts to regain authority lost to the CEO, the county commission considered an ordinance which would impose sanctions on the director and deputy of the office of the corporation counsel, and make those appointees subject to dismissal by the county commission; the commission was informed by the corporation counsel that this would violate the charter.

The department of information processing was established with four divisions: information center, development and maintenance, technical support, and operations. Significant problems existed in the development and implementation of computerized systems at the time of charter implementation. Efforts are continuing to centralize county records to permit the production of complete financial reports, but the condition of accounting records, entry errors, and inadequate systems remain major problems.

Prior to 1983 the county commission appointed the members of the civil service commission, which directed the day-to-day operations of the personnel department, including setting qualifying scores for examinations, determining which applicants passed examinations, dissolving eligibility lists, and changing job requirements to fit particular candidates. The county commission also appointed five of its own members to the labor relations board, which, through the labor relations director, set labor policy, negotiated labor contracts, and participated in the grievance procedure. Under the reorganization plan, the executive department of human resources contained divisions of personnel, responsible for employment, classification, benefits, and training; labor relations, with a director appointed by and responsible to the CEO; and civil service commission, reduced to hearing grievances from classified employees.

A department of management and budget was established with divisions of budget, accounting, purchasing, and assessment and equalization, headed by the chief financial officer. The chaotic financial system demanded immediate overhaul, and efforts were directed to developing a fiscal strategy, implementing adequate financial management and payroll systems, and developing an expenditure monitoring system.

Line Operations. Offices of public services, and health and community services were created. Each of these line operations was to be directed by an assistant to the CEO.

Public services functions included those performed by the elected drain commissioner and the appointed road commission, two entities that previously had operated independently. The reorganization plan attempted to establish centralized control by creating support units of administration, engineering, building operation and maintenance, equipment, and planning. It required amending state law, prevailing in several lawsuits, and amending the charter twice (in 1984 to abolish the road commission, and in 1986 to abolish the office of drain commissioner) to formally implement the goal of departments of parks, roads, airports, and public works with divisions of sewage and drains, within the office of public services.

All other service delivery functions, including the county hospital, youth home, library, environmental protection, cooperative extension service, medical examiner, senior citizens, and mental health, were grouped together in the office of health and community services. Centralized performance of budgetary and personnel functions was effectuated without structural changes in the units combined.

While in the office of public services the major issue had been centralizing control, in the office of health and community services the main issue was financing county health and welfare services. Wayne

County General Hospital required operating subsidies of over $17 million in both fiscal 1982 and 1983, and was leased to Southwest General Hospital for 10 years in 1984. Changes in state law had increased county costs and decreased county control of the indigent hospitalization program. At the end of 1983, county debts to the state for indigent hospitalization, community mental health, and the state ward charge back program were estimated at $116.6 million; that estimate was subsequently revised upward. A debt settlement agreement negotiated with the state resulted in the forgiveness of $45 million and the transfer to future debt of $89.5 million, of which an additional $45.65 million could be forgiven. State participation in funding the county patient care management system established for indigent hospitalization was set at $19.5 million of a $32 million program, but actual program costs to the county have exceeded the program cap by about $16 million annually.

Reorganization under the Second County Executive. The reorganization plan submitted by the second elected Wayne County executive reflected his emphasis on economic development. That plan maintained the existing organization, although with some modification to the division structure, and added a third line agency, the department of jobs and economic development, with divisions of job training, planning, economic development, and community block grants. According to the plan, department directors and deputies, as well as division directors and chief assistants, were to be appointed by the CEO, with division-level appointees (except the civil service commission) not subject to commission approval.

Conclusion. The Wayne County Charter removed executive and administrative authority from the legislative board and assigned it to the new chief executive. This separation of powers was not accomplished easily. The board of commissioners considered numerous ordinances that would return authority to the legislative body. In addition, nearly every step of reorganization in Wayne County was challenged by individuals and groups which had benefited from the previous form of operation, and formal implementation of the preferred reorganization plan submitted in 1983 did not occur until after the second charter amendment in 1986. But the separation of powers between a restricted legislative branch and a strengthened executive branch and the authority of the CEO to structure that part of the executive branch under his control are now established. One of the primary goals of charter adoption, that of accountability, has been accomplished.

County reorganization under home rule could take various forms, depending upon the limitations in the adopted charter and the preferences of the county executive. In Wayne County, reorganized under provisions of state law that treat counties of over 1,500,000 population differently, corporation counsel opinions and court judgments generally supported. the centralization of executive authority in the county executive. Different requirements in smaller counties, other charter approaches, and varying legal interpretations could create different situations than those described herein.