

F I N A L R E P O R T

LOCAL GOVERNMENT STRUCTURE STUDY COMMITTEE

January, 1986

The Local Government Structure Study Committee was established by the Legislative Council to evaluate the report of the Advisory Commission on Intergovernmental Relations (ACIR) and develop legislative recommendations regarding authorization for local governments to change their structures.

Members serving on the Committee were:

Senator Alvin Miller, Co-chairperson
Representative Jim O'Kane, Co-chairperson
Senator James D. Wells
Senator Arne Waldstein
Senator Richard Vande Hoef
Representative Linda L. Beatty
Representative Elaine Baxter
Representative Bill Royer
Representative Bob Renken

The Committee was authorized three meetings by the Legislative Council, but completed its work after two.

The first meeting was held on November 19, 1985 at the State House in Des Moines.

The Committee heard testimony from Mr. Ken Kew and Mr. Jim Lynch, who served as the Chairperson and Staff Director for ACIR, respectively. The two summarized ACIR's findings and recommendations, the most significant of which were that county governments today are responsible for provision of a wide array of services which were not expected of them when their present structure was established, and that, consequently, counties should be granted the right to further implement home rule and determine the form of government most efficient for them.

Also appearing before the Committee was Mr. Ned Chiodo, the Polk County Auditor. Mr. Chiodo spoke in favor of the concept of permitting the consolidation of elective offices within a given county government. He cited duplication of efforts and services as one reason why consolidation of offices would increase efficiency and result in cost savings.

Testifying on the general subject of the impact of state-imposed mandates on local governments were Mr. Bob Harpster of the League of Iowa Municipalities, Mr. John Torbert of the Iowa State

Association of Counties and Mr. Ron Amosson of the State Comptroller's office. The picture that emerged from their presentations was one of a steadily increasing strain on local government budgets.

The second meeting of the Committee was held on December 9, 1985 at the Statehouse.

Testimony was received from Mr. Richard Davis, Executive Director of the Polk-Des Moines Taxpayers Association. Mr. Davis expressed his association's agreement with the ACIR recommendation that counties be allowed to choose their form of government. He also addressed the topic of public employee pension systems which are financed through property tax revenues. Mr. Davis reported on a growing national trend towards consolidation of pension systems. He suggested that consolidation of systems mandated by chapter 411 (retirement systems for police officers and fire fighters) with the IPERS system would result in more equitable coverage for public employees throughout the state and also achieve significant tax relief for property taxpayers.

Having concluded its hearing of testimony from various groups in the public and private sectors in positions to lend insight into possible implications and ramifications of structural revisions of local governments, the Committee proceeded to review a synopsis of statutorily permitted forms of city government and the procedures whereby they may be adopted.

The Committee then voted unanimously to recommend to the General Assembly the passage of a bill which would authorize Polk County to establish a county charter commission and ultimately adopt a new county charter, reasoning that if restructuring works in the state's largest county it will probably be feasible in other counties around the state and would then be legislatively enabled. A copy of a proposed bill addressing the Polk County situation is attached to this report.

HOUSE/SENATE FILE _____
BY (PROPOSED LOCAL GOVERNMENTAL
STRUCTURES STUDY COMMITTEE
BILL)
FOR DISCUSSION PURPOSES

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act authorizing a county having a population of two hundred
2 fifty thousand or more to establish a county charter
3 commission, specifying the powers and duties of the charter
4 commission, and providing for the adoption of a county
5 charter.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 331.221 DEFINITIONS.

2 As used in sections 331.221 through 331.228, unless the
3 context otherwise requires:

4 1. "Board" means the board of supervisors of a county.

5 2. "Commission" means a charter commission created under
6 sections 331.221 through 331.228.

7 3. "County officer" means the county auditor, sheriff,
8 treasurer, recorder, or attorney.

9 4. "County" means a county having a population of two
10 hundred fifty thousand or more.

11 Sec. 2. NEW SECTION. 331.222 COUNTY CHARTER AUTHORIZED--
12 LIMITATIONS.

13 1. A county may adopt or amend a charter for the
14 government of the county subject to the requirements and
15 limitations provided in sections 331.221 through 331.228.

16 2. A county charter shall provide for the exercise of home
17 rule power and authority and may include, but is not limited
18 to, provisions for:

19 a. A board of an odd number of members which may exceed
20 the number of members specified in section 331.201.

21 b. A supervisor representation plan for the county which
22 may differ from the supervisor representation plans specified
23 in sections 331.206, and 331.208 through 331.210.

24 c. The compensation for members of the board and other
25 elected officers.

26 d. The appointment by the board of one or more of the
27 county officers otherwise elected as provided in section
28 39.17.

29 e. The method of selecting officers of the board and
30 fixing their terms of office which may differ from the
31 requirements of section 331.211.

32 f. Determining meetings of the board and rules of
33 procedure which may differ from the requirements of section
34 331.213 except the meetings shall be scheduled and conducted
35 in compliance with chapter 21.

1 g. The method of combining the duties of elected county
2 officers which may differ from the requirements of section
3 331.219.

4 h. The organization of county departments or agencies
5 including, but not limited to, the county commission of
6 veterans affairs organized under chapter 250, a board of
7 county public hospital trustees established under chapter 347
8 or 347A, and a county conservation board established under
9 chapter 111A. The organization plan may provide for the
10 abolition of a board or commission and the assumption of its
11 powers and duties by the board of supervisors or another
12 officer.

13 3. A county charter or charter amendment shall not contain
14 a provision which relates to the levy or collection of a tax.

15 Sec. 3. NEW SECTION. 331.223 CHARTER COMMISSION CREATED.

16 The board may by resolution, or shall upon petition of the
17 number of eligible electors of the county equal to at least
18 two percent of the votes cast in the county at the preceding
19 election for the office of president of the United States or
20 governor, create a county charter commission to study and make
21 recommendations for the functions, organization, and structure
22 of county government subject to the requirements and
23 limitations specified in section 331.222. The recommendations
24 of the commission shall be presented in the form of a proposed
25 county charter which shall be submitted to the qualified
26 electors of the county for approval or disapproval as provided
27 in section 331.221 through 331.228.

28 Sec. 4. NEW SECTION. 331.224 APPOINTMENT OF MEMBERSHIP.

29 1. Within forty-five days after the adoption of the
30 resolution creating the commission, the membership of the
31 commission shall be appointed as follows:

32 a. Two members shall be appointed by the board from each
33 legislative district from a list of three names submitted to
34 it by each legislator whose district is located in the county
35 and in which a majority of the electors reside in the county.

S.F. _____ H.F. _____

1 Each legislator shall submit names of persons who reside
2 within the county in which the charter commission is being
3 requested and within that legislator's district.

4 b. One member shall be appointed by each member of the
5 board.

6 2. A vacancy on the commission shall be filled by
7 appointment in the same manner as the original appointment.
8 The county auditor shall notify the appropriate appointing
9 authority of the vacancy.

10 Sec. 5. NEW SECTION. 331.225 ORGANIZATION AND EXPENSES.

11 1. Within thirty days after appointment of the members of
12 the commission, the county auditor shall give written notice
13 of the date, time, and location of the first meeting of the
14 commission. At its first meeting the commission shall
15 organize by electing a chairperson, vice chairperson, and
16 other officers as necessary. The commission shall adopt rules
17 governing the conduct of its meetings, subject to chapter 21.

18 2. The members of the commission shall serve without
19 compensation, but they are entitled to travel and other
20 necessary expenses relating to their duties of office, subject
21 to section 79.9.

22 3. The board shall provide office space, rooms, supplies,
23 and equipment for the commission and shall pay the necessary
24 expenses of the commission including compensation for
25 secretarial, clerical, professional, and consultant services
26 not to exceed one hundred thousand dollars. The commission
27 may employ staff as necessary.

28 4. The expenses of the commission may be paid from the
29 general fund of the county or from any combination of public
30 or private funds available for that purpose.

31 Sec. 6. NEW SECTION. 331.226 COMMISSION PROCEDURES AND
32 REPORTS.

33 1. Within sixty days after its organization, the
34 commission shall hold at least one public hearing for the
35 purpose of receiving information and materials which will

1 assist in the drafting of a county charter. Notice of the
2 date, time, and place of the hearing shall be given as
3 provided in chapter 21.

4 2. Within nine months after the organization of the
5 commission, the commission shall submit a preliminary report
6 to the board, which report shall include the text of the
7 proposed county charter. Sufficient copies of the proposed
8 charter shall be made available for distribution to residents
9 of the county who request a copy. The commission shall hold
10 at least one public hearing after submission of the
11 preliminary report to obtain public comment on the report.

12 3. Within fifteen months after its organization, the
13 commission shall submit its final report to the board. The
14 final report shall include the full text and an explanation of
15 the proposed charter, any comments deemed desirable by the
16 commission, a written opinion by the attorney general of this
17 state, stating that the proposed charter is not in conflict
18 with constitutional or statutory law of this state, and any
19 minority reports. The final report shall be made available to
20 the residents of the county upon request.

21 4. The commission is dissolved on the date of the general
22 election at which the proposed county charter is submitted to
23 the electorate.

24 Sec. 7. NEW SECTION. 331.227 AMENDMENT TO CHARTER.

25 1. The board, by resolution, may submit a proposed charter
26 amendment to the county electorate at a general election and
27 the proposed amendment becomes effective if approved by a
28 majority of those voting on the proposal.

29 2. If a petition signed by eligible electors of the county
30 equal in number to at least ten percent of the votes cast in
31 the county for the office of president of the United States or
32 governor at the preceding general election is filed with the
33 board proposing an amendment to the charter, the board shall
34 submit the proposed amendment to the voters at the next
35 general election and the amendment becomes effective if

1 approved by a majority of those voting on the proposal.

2 3. The submission of an amendment to the county electorate
3 is subject to the restrictions of section 331.228, subsection
4 3.

5 Sec. 8. NEW SECTION. 331.228 REFERENDUM--EFFECTIVE DATE.

6 1. Upon receipt of a proposed charter or charter
7 amendment, the board shall direct the county commissioner of
8 elections to submit to the qualified electors of the county at
9 the next general election the question of whether the proposed
10 charter or amendment shall be adopted. If a majority of the
11 votes cast on the question is in favor of the proposal, the
12 proposal is adopted.

13 2. If a county charter or charter amendment is adopted:

14 a. The proposed charter or amendment shall take effect
15 January 1 following the general election at which it is
16 approved unless the charter or amendment provides a later
17 effective date. If the adopted charter or charter amendment
18 provides for a special election, the board shall direct the
19 county commissioner of elections to conduct the election.

20 b. The adoption of the charter does not alter any right or
21 liability of the county in effect at the time of the election
22 at which the charter was adopted.

23 c. All departments and agencies shall continue to operate
24 until replaced.

25 d. All ordinances or resolutions in effect remain
26 effective until amended or repealed, unless they are
27 irreconcilable with the charter.

28 e. Upon the effective date of the charter, the county
29 shall adopt the charter by ordinance, and shall file a copy of
30 its charter with the secretary of state, and maintain copies
31 available for public inspection.

32 3. If a county charter is adopted by the electorate, a
33 county charter or charter amendment proposing a change in the
34 number of supervisors shall not be submitted to the electorate
35 for three years.

1 Sec. 9. Section 39.17, Code 1985, is amended by adding the
2 following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. If a county charter provides for
4 the appointment of any of the elective county officers as
5 authorized in section 331.222, this section does not apply to
6 that county officer. An elected county officer whose office
7 is made appointive or combined under a county charter may
8 serve the remainder of the officer's unexpired term. If two
9 elective offices are combined or made appointive and the terms
10 of office of the incumbents do not expire simultaneously, the
11 officer whose term expires first may seek reelection to a
12 shorter term which will expire simultaneously with the term of
13 the other officer.

14 Sec. 10. Section 69.13, subsection 2, Code 1985, is
15 amended to read as follows:

16 2. COUNTY OFFICERS. If a vacancy occurs in the office of
17 county supervisor or in any of the offices listed in section
18 39.17 sixty or more days prior to a general election, and the
19 unexpired term in which the vacancy exists has more than
20 seventy days to run after the date of that general election,
21 the vacancy shall be filled for the balance of the unexpired
22 term at that general election and the person elected to fill
23 the vacancy shall assume office as soon as a certificate of
24 election has been issued and the person has qualified.

25 However, this subsection does not apply to any county offices
26 listed in section 39.17 which are appointive under a county
27 charter.

28 Sec. 11. Section 331.501, subsection 1, Code 1985, is
29 amended to read as follows:

30 1. The office of auditor is an elective office except that
31 if when a county charter provides for appointment of the
32 auditor as authorized under section 331.222. If a vacancy
33 occurs in the office, a successor shall be appointed to the
34 unexpired term as provided in chapter 69.

35 Sec. 12. Section 331.551, subsection 1, Code 1985, is

1 amended to read as follows:

2 1. The office of treasurer is an elective office except
3 ~~that-if~~ when a county charter provides for appointment of the
4 treasurer as authorized under section 331.222. If a vacancy
5 occurs in the office, a successor shall be appointed to the
6 unexpired term as provided in chapter 69.

7 Sec. 13. Section 331.601, subsection 1, Code 1985, is
8 amended to read as follows:

9 1. The office of recorder is an elective office except
10 ~~that-if~~ when a county charter provides for appointment of the
11 recorder as authorized under section 331.222. If a vacancy
12 occurs in the office, a successor shall be appointed to the
13 unexpired term as provided in chapter 69.

14 Sec. 14. Section 331.651, subsection 1, Code 1985, is
15 amended to read as follows:

16 1. The office of sheriff is an elective office except that
17 ~~if~~ when a county charter provides for appointment of the
18 sheriff as authorized under section 331.222. If a vacancy
19 occurs in the office, the first deputy shall assume the office
20 after qualifying as provided in this section and shall hold
21 the office until a successor is appointed to the unexpired
22 term as provided in chapter 69. If a sheriff is suspended
23 from office, the district court may appoint a sheriff until a
24 temporary appointment is made by the board as provided in
25 section 66.19.

26 Sec. 15. Section 331.751, subsection 1, Code 1985, is
27 amended to read as follows:

28 1. The office of county attorney is an elective office
29 except ~~that-if~~ when a county charter provides for appointment
30 of the county attorney as authorized under section 331.222. If
31 a vacancy occurs in the office, a successor shall be appointed
32 to the unexpired term as provided in chapter 69.

33

EXPLANATION

34 This bill provides that a county having a population of
35 250,000 or more may create a county charter commission to

1 prepare a charter to be submitted for approval of the county
2 electorate. The county charter commission may be created by
3 resolution of the board of supervisors or by petition of the
4 county electorate. The bill outlines the membership of the
5 charter commission, its funding and authority. The bill
6 establishes a timetable in which the charter commission is to
7 complete its charter proposal for submission to a referendum.

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