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## Let's Think About . . .

# County Home Rule in Oregon

SHOULD OUR COUNTY GOVERNMENT be changed? How? When? Should there be more elected officials? Consolidation of departments? A manager or chief executive to conduct county business?

Should county officials have more power? Should the authority and services of the county be determined locally? In Salem? Where? Should we have county "home rule"? Will "home rule" lower taxes? Will it make better use of our tax dollars?

Do you ever ponder these questions? Many residents of Oregon counties are thinking about them. They are important to all. What we have now and shall have in the future as county government, as public services, and as taxes are determined by what we think, say, and do.

### What Is Home Rule?

Home rule in Oregon is an arrangement that uses a local charter instead of the traditional general law of the state as the basis for local government. Home rule permits residents of a county or city to determine for themselves, through development and adoption of a charter, how their local government is organized and what functions it performs?

Without home rule, local government organization and functions are determined by state constitutions and state laws, rather than by charters developed and adopted locally.

Cities in Oregon have had home rule authority since 1906, but home rule is relatively recent for counties. It was made available to counties by a constitutional amendment in 1958 and enabling legislation in 1959.

Compared to what we have had, county home rule means more self-determination, more local control, and more local responsibility in the way

we organize and operate county government. It also can mean more opportunity to determine the need for and nature of many public services in each county. For better or worse, home rule tends to transfer management of county affairs from the state legislature to the county.

An important purpose is to permit and encourage local solution of local problems and to authorize innovation and adaptation without seeking or waiting for state enabling legislation.

### What Counties Have Home Rule?

Four Oregon counties have approved charters and are operating under home rule in 1969. Lane and Washington were first with adoptions in the November 1962 general election. Hood River approved a charter in November 1964 and Multnomah followed in the May 1966 primary election.

During the first ten years that home rule was available, county charters were proposed by officially appointed committees in twelve Oregon counties: Benton, Deschutes, Hood River, Jackson, Lane, Marion, Multnomah, Sherman, Tillamook, Umatilla, Washington, and Wasco. Charters were submitted to popular vote twice in both Hood River and Tillamook counties. The only charter proposed by a "self-starting" committee was the second charter in Tillamook County. Charters were rejected in Benton, Deschutes, Jackson, Marion, Sherman, Tillamook, Umatilla, and Wasco counties, but the charter form has been retained in the four counties where it was adopted.

### What Are the Principal Provisions in Charters?

Reorganization or restructuring of county government has been the principal result of home rule in the four Oregon counties that have adopted charters. The organization is different in each county, but there are many similarities.

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All four counties have a department of public works. Three of the four have departments of public safety and three have departments of records and elections. Two have departments of finance, while the other two have similar departments with slightly different names. Likewise, two have health departments and two have similar departments under different names.

The number of charter-designated departments in each county varies from six to eight. In each case, there are fewer departments and divisions than formerly. Functions and services have been regrouped and consolidated.

None of the charters change the custom of electing the county commissioners who serve as the policy-making governing board. Lane County has three full-time commissioners. The other three counties have five commissioners. They serve full-time in Multnomah County and part-time in Hood River and Washington counties. In the latter counties, the charter provides specifically for a full-time county executive or administrative officer employed by the governing board to carry out its policies and orders.

In three counties, the charters also provide that the sheriff shall be elected. The exception is Multnomah County where a director of public safety is appointed and an auditor is elected. In Lane County the assessor, as well as the sheriff, is elected.

In addition to provisions for reorganization, most charters have included a general grant of powers to deal with matters of county concern. Such a provision aims to provide local authority, but the scope of "county-concerns" has not been defined in detail. As with 60 years of city home rule, the distinction between county and state concerns will raise many questions. Questions pertaining to relations between county and city concerns are also inevitable.

It is clear that the constitutional provision intends to increase the powers and responsibilities of counties and decrease their dependence on state legislative grants of authority. Experience with city charters suggests that uncertainty over the exact definition of "county concerns" will not pose an insurmountable problem.

### What Is Required?

To have county home rule, a majority of the county's voters in a primary or general election must approve a charter. A charter is much like a

constitution for the county; it outlines the basic organization and may grant broad powers or define the powers of the government.

A charter prescribes the organization of the county government. It specifies the officers to be elected or appointed, as well as their qualifications and tenure. Designated officers must perform the duties assigned by the charter. They must also perform the duties of general state concern that are required of county government by the laws and the constitution of the state.

The charter may increase local flexibility and authority in financing county activities and services. It may or may not specify ways of financing public improvements. A charter may or may not convey authority over other matters of county concern. If these options are not included in the charter, the officials do the same as they would if there were no charter. That is, they perform only the duties and exercise only the powers required or authorized by state statutes.

### How Is a Charter Prepared?

In order to acquire a charter, a county must follow certain specific procedures required by state laws. These laws provide two ways to prepare and place a charter before the voters for approval or rejection. One way is through an "officially appointed" committee; the other way is through a "self-starting" committee and an initiative petition.

The "self-starting" approach uses the initiative powers reserved by the constitution to the voters of each county. This means that any voter or group of voters may draft a charter and have it placed on the ballot through petitions. These petitions must be signed by voters equal in number to at least 6 percent of the total number of votes cast in the county for the office of Governor in the last [previous] general election.

The other, more common approach—the "officially appointed" committee—may start in either of two ways. It may begin with a resolution adopted by the county's governing body with an appointment-requesting petition signed by a sufficient number of voters. The number must equal at least 5 percent of the total number of votes cast in the county for the position of Supreme Court Justice receiving the greatest number of votes in the last election. The resolution or petition must be filed with and verified by the county clerk.

The charter committee must be appointed within 60 days following this filing. Four members

are appointed by the county governing body. Legislators representing the county appoint four more members in counties where there are no representative subdistricts. These eight members choose one more member to make a total of nine.

In counties where representative subdistricts exist, as in Multnomah County, a member from each subdistrict is appointed. All members must be legal voters of the county. No one authorized to participate in the appointment to a charter committee may serve on it.

The charter committee may employ staff or contract needed services subject to the limits of authorized funds. The committee may also conduct interviews and make investigations deemed necessary to draft a charter. At least one public hearing must be held before a charter is submitted to the voters. The proposed charter must be filed with the county clerk and made available for public study and discussion at least 90 days before the primary or general election at which the vote is to be taken. The election should be within two years after the committee is authorized.

To be approved, a proposed charter must receive a majority vote at the time of a primary or general election.

### When Should a Charter Be Sought?

Experience thus far in Oregon suggests that voters are not likely to adopt charters on their merits alone. Much depends upon keeping the public informed and involved in the development of the charter. Understanding and confidence are developed in this way.

Sometimes motivation may come from dissatisfaction with county government. A scandal could provide the opportune moment for consideration. Should we wait? Is there an organization to promote charter development and adoption? Who can keep the public informed and involved in the process of change?

These and other questions should be pondered before action is started.

### What Are Some of the Problems?

Opposition and compromises are to be expected, but experience suggests that much thought should be given to ways of avoiding charters with "built-in" compromises that may spoil chances of success when the new government is launched.

Suppose an elected official, popular with the voters, is opposed to charter government. Should the committee leave his position elective if it believes this is necessary in order to avoid defeat of the charter? Suppose this is done, and the official is re-elected. What if he becomes an active opponent of the charter and those responsible for making it work? Such a development aggravates the problems of establishing a workable system under the charter and raises doubts about the wisdom of the compromise.

Should the elected commissioners serve full-time or part-time? Will the right answer in a county with a small population and few growing pains be the same as in a county with a relatively large, rapidly growing population?

Should commissioners' compensation be set in charters or left to be reviewed and established annually? Many voters prefer the former practice, but is it the wiser course in order to obtain and retain the kind of competence needed for effective and efficient performance?

### How Much Change Will Home Rule Bring?

Only time can tell what changes home rule will bring. No Oregon county has had home rule long enough to go much beyond transition from the old to the new.

Changes, to be accepted, often must come gradually. Few want revolutionary change, but many accept evolutionary or gradual change. Attempts at rapid change often generate hostility and loss of competent staff. A constant effort should be made to keep the public informed about changes that are contemplated as well as adopted.

Seldom will a county suddenly make a big change in its revenue and expenditure patterns or undertake a wide range of new activities. Yet, over time, home rule may greatly expand opportunities to deal with local problems in ways more acceptable to local residents than the ways prescribed by state law.

### Will Home Rule Lower Taxes?

County home rule *can* lower taxes. Whether county home rule *will* lower taxes or not is debatable and doubtful. What happens to taxes depends on decisions made at local, state, and national levels; but what happens to locally levied taxes,

especially property taxes, depends in the final analysis on decisions made by budget committees and voters at the local level.

Without home rule, county budget committees are essentially limited to reducing property taxes through cuts in expenditures. Sometimes this action may increase efficiency, but usually it means a reduction in the amount or quality of county services.

With home rule, reliance on property tax levies could be reduced. Other sources of revenue could be substituted. These might include such county-wide levies as supplements to the present state income tax or to a net receipts or sales tax if approved by local voters either in the charter or in an amendment to it.

Reorganizing county government can increase efficiency—that is, produce more county services for each dollar used—but this is seldom sufficient to reduce taxes. Instead, the reorganization may help to slow increases in budgets and local levies. As with other governments, counties adopting home rule often face overriding pressures of growth in population and in demands for services, along with inflation.

In brief, home rule increases local flexibility and local authority in financing public services. It improves the means of responding to tighter limits on property taxes, regardless of whether they are invoked at the state or the local level. It in-

creases chances for lowering property taxes without critical cuts in county services.

### **Where May a Charter Committee Find Help?**

Charter-writing provides an opportunity for lay people to pool their knowledge, beliefs, and goals with the training, experience, and observations of technical experts and professional people from such fields as law, public administration, political science, and economics. Sharing practical ideas and technical information is important. It can do much to assure an understandable, acceptable, and enduring documentary base for county government.

A committee undertaking to write a charter can get help by obtaining and studying charters that have been approved in other counties.

The Association of Oregon Counties has prepared a "pilot charter" that may be used as a guide. This may be obtained from The Association of Oregon Counties, P. O. Box 2051, Salem, Oregon 97308.

Much technical assistance has been provided to charter committees by the Bureau of Governmental Research and Service headquartered at the University of Oregon in Eugene.

Often contacts may be made and other assistance obtained through Cooperative Extension Service offices located at each county seat in the state.