

The South Carolina Governance Project

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County Government in the Palmetto State

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Counties in the United States

Counties stand as symbols of traditional American local government. And, they are a link with our rural heritage. They are the most "territorially pervasive units of local government in the United States."¹ While in the New England states they tend to be weak, in the south they are important units of local government. They may either share power with cities, or even have greater power. Indeed, in much of the south it is the county courthouse rather than city hall where local public policy is made.

Since World War II the United States has increasingly become a nation of suburbs which are outside city boundaries. These urbanized areas, however, are in a county which makes the county the primary local government providing urban type services. Thus, county services have changed from one historical period to another. In prerevolutionary America they served ecclesiastic and civil purposes. After the American Revolution they became administrative arms of the states, assisting in tax collection, recording land transactions, enforcing laws and administering justice locally. Today, on the other hand, they are involved with road construction and maintenance, public health, solid waste management, fire protection, schools and education, recreation and leisure services, planning and zoning, flood control and prevention, and water management.

Major Influences on American Counties

Urbanization, state governments and federal programs have been and are major influences on county governments in America. Urbanization intensified after the Civil War, particularly after World War I. Urbanization brings with it complexity. Citizens demand more from government as the population of a community grows, density increases and industrialization occurs. Cities are formed often to meet the needs of people in an urban setting. But, where cities do not exist, the county has had to respond to the urban service needs of people.

Counties began as administrative arms of the states, however. Thus, much of what they do is affected by what the state requires them to do. Unlike cities, counties have historical ties to their state government. Their organizational structure is heavily influenced by what the state constitution and statutes require. The programs they administer likewise are determined in large part by state requirement, not just by local citizen demand. But, they also have taken on more responsibilities in recent history as indicated above, leading them to act as quasi-municipal governments, albeit with some difficulty.

Finally, American counties have been heavily influenced by federal programs. Again, urbanization has influenced many of these programs, such as the need for better housing, air and water pollution control, public health protection, roads, parks and recreation, flood and drainage control. As the most geographically comprehensive unit of local government, counties have often been relied upon to administer federal programs.²

Thus, counties have been greatly influenced by urbanization, the state and federal government.

Counties in South Carolina

South Carolina counties, like cities, states and the national government are general purpose units of government. This means they have the authority to provide and perform a wide array of governmental services. Unlike the other general purpose governments, however, counties have experienced a slow, evolutionary process of assuming their place among their governmental counterparts in the United States. South Carolina has been no exception to this. (See [Figure 1](#) for a list of counties.)

Following revisions to the state constitution in 1973 and passage of the **Local Government Law of 1975**, otherwise known as the **Home Rule Act**, counties today have essentially the same powers as municipal governments. Yet, they are also different because they also serve as administrative arms of the state government. Many of their functions and their officials are constitutionally or statutorily required. Today, however, counties are increasingly recognized as more than mere extensions of state government and are being called upon to provide a broad array of services to their citizens. Unlike their city counterparts, however, South Carolina counties labor under organizational structures that make it difficult at times to perform their roles.

Organizational Structure of Counties

Counties in South Carolina, as in the United States generally, are characterized by an organizational structure which is highly fragmented and decentralized. They have numerous elected department heads, for example, who have considerable autonomy from the county executive, if there is one, and the council or legislative body. Such officials include typically the treasurer, auditor, sheriff, clerk of court, coroner and in some counties other officials not found statewide, like a tax collector. Some of these officials are required by the state's Constitution, others by state law.

In addition, counties provide physical space and other support for activities and functions that are essentially state activities, like the health department, social services, courts and the solicitors who prosecute violations of state laws. The result is an organization chart that is anything but the classic pyramid with authority easily identified in a hierarchical chain of command. In this regard, our counties resemble the state government's organizational structure to some extent which is also fragmented.

Historically, when counties were primarily administrative arms of state government, a fragmented and decentralized governmental structure may not have been an issue. As times have changed, however, and counties have become city-like local government service providers, their structure has become an issue at times. Authority is not always easily determined. Changes are not readily made.

First, a brief review of history will help set the stage for this module. In many ways, the history of South Carolina's counties must be understood in the context of pre- and post-home rule history.

County Government Before Home Rule

The consensus among most students of South Carolina history is that counties were not a significant entity during the early history of our state. Government was concentrated in Charleston. In the 18th century, when the Anglican Church was the official establishment church in the colony, church parishes served the purpose that modern day counties serve for things such as elections, roads, vital statistics record keeping and so forth.

After the American Revolution counties were laid out and county courts created. These courts existed within a larger set of judicial districts, however, so that counties still were not the recognizable entity they are today. There was no regular system of county taxation during this period of our history.

In 1868, following the Civil War, the State Constitution changed the judicial districts into counties and a Board of County Commissioners was created in each county. This board could tax and spend for what was considered "county purposes," that is a narrow range of services. Reconstruction politics intruded and the constitutional provisions dealing with county government were repealed in 1890.

The Constitution of 1895, which amended is the present day South Carolina Constitution, brought counties back again. Duties and powers were specified, but the General Assembly was restricted in its power to authorize taxes for county purposes other than limited purposes. Thus, the county was relegated to providing for schools, roads, ferries, bridges, public building and the like. This limited role for the county came to be referred to as the **county purpose doctrine** in later court cases and greatly restricted what counties could do until the early 1970s.

Thus, for much of South Carolina's history, counties were actually governed by the General Assembly through their state legislative delegation. The delegation was composed of the State Senator from each county, and the House members from the county. A **supply bill** was passed each year as local legislation which served as the county budget. Delegations deferred to one another so that each county's delegation essentially ruled within its county boundaries, and among the delegation the State Senator was particularly prominent and powerful since there was only one senator from a county. State legislators played two roles: state representatives for statewide issues, and local legislators for their particular county. Thus, the expectation was that legislators were local governing officials as well as state policy makers.

With World War II and growth coming to South Carolina, it became harder for state lawmakers to serve their dual roles in many places. Charleston County led the change to a local county council and a manager in the late 1940s. Others waited, however, until federal court cases forced a change beginning in the 1960s.

The federal courts in cases such as **Reynolds v. Sims (1964)** established the one-man, one-vote concept for electoral representation at the state level. Legislators were now supposed to represent more or less equal numbers of people. Because of the varying distribution of South Carolina's population, some counties lost their resident senator, and their House members now came from districts that could cross county lines.³

Reapportionment, therefore, spurred a movement to reform South Carolina county government statewide. In 1966 the General Assembly created a Constitutional Revision Committee to recommend changes to the Constitution. The local government changes recommended were put before the citizens of the state in the 1972 general election, approved and later ratified by the General Assembly in 1973 as Article VIII of the State Constitution. This was followed by implementing legislation passed in 1975 (the Home Rule Act).

County Government After Home Rule

Thus, home rule came to South Carolina in the early 1970s. Counties derive their powers and duties today from our state's constitution and statutes. Article VIII, section 7 of the South Carolina Constitution, passed in 1973 as part of the home rule amendment, allowed the legislature to provide for up to five forms of county government. Act 283 of 1975 provided for five forms of county government, one of which, the county commissioner form, was ruled unconstitutional by the state supreme court in **Duncan v. County of York** in 1976 because it failed to provide county government with the powers mandated by the constitution. Counties must, therefore, adopt one of four remaining forms of county government.

Once adopted, the form of government adopted by a county can still be changed. This is done in one of two ways: the county council can call for a referendum to change the form of government, or the citizens of the county may petition the council for a referendum. A petition requires the signatures of a least ten percent of the county's registered voters.⁴ A majority of those voting in a referendum must vote for a change before the form of government can be changed. If the referendum fails, a minimum of four years must elapse before another referendum can be held on a change of government form.

Home rule also increased the powers of county government, although many felt that fiscal home rule was not included in the enhancements of power conferred by the constitutional changes in 1973. As we will see later in this module, the South Carolina State Supreme Court disagreed with that interpretation leading the General Assembly to resolve the legal issue in 1997.

Forms of County Government

The four forms of county government available in South Carolina are the **council form**, **council-supervisor form**, **council-administrator form**, and the **council-manager form**. To date 32 counties use the administrator form, five the supervisor form, seven the council form, and two the manager form. There are some important differences between the various forms of county government.

The Council Form

Seven South Carolina counties currently use the Council form. In this form of government, all responsibility for policy making and administration of county government is vested in the county council.⁵ The council shall consist of not less than three nor more than 12 members. Although omitted from the state statute, the terms of council members in this form, as in the other forms, shall be two or four years as determined by the county council. This form is unique in that there is no county executive. The council retains executive and legislative power. However, it may designate one of its members, such as the Chairman, to act in its behalf and assign him additional administrative duties, or it may designate some other appointive employee to act in such capacity at the council's discretion.

The Council-Supervisor Form

Five counties use the Supervisor form. Counties adopting the council-supervisor form of government shall consist of not less than two nor more than 12 council members, elected for two or four year terms. The supervisor is elected at-large and by law serves as chairman of the county council and is elected also for a two or four year term of office. The law states that the supervisor may vote only to break tie votes on the council.⁶

The salary of the supervisor is determined by the council by ordinance and may be changed during the term for which he is elected so long as the supervisor does not vote on the question.⁷ State law prescribes the powers and duties of the county supervisor. We must recall, however, that powers and duties are types of **formal authority or power**. Government officials may also exercise or have **informal power** which derives from a number of sources, including their personality, expertise, the attitudes of those they interact with and so forth. [See [Figure 2 on supervisor's power](#)]

State law provides that the council may not remove any county administrative officers or employees appointed by the supervisor or his subordinates except by two-thirds vote of the council present and voting. The law also provides that neither the council nor individual members shall give direct orders to any county employee, publicly or privately, except for purposes of inquiries or official investigations.

Regarding other elected officials of county government, the law states that except for organizational policies established by the council the supervisor shall not have authority over those elected officials whose offices were created by either the state Constitution or by general law. This would include such county officials as the sheriff, treasurer, auditor, clerk of court and so forth.

The Council-Administrator Form

The council in the council-administrator form of government shall consist of not less than three members nor more than 12 members. Council members are again elected either for two or four year terms of office.⁸ The administrator is an appointive official employed by the council who is to be the administrative head of the county government responsible for administration in all departments subject to the council's control. The council may employ the administrator for a definite term or not, at its discretion. Should the council decide to terminate the administrator, he shall be given a written statement of the reasons for termination and has the right to a public hearing at a council meeting.⁹

The powers and duties of the county administrator are outlined in state law. [\(See Figure 3\)](#) The administrator is specifically directed by law to inform the council of anticipated revenues and the amount of tax revenue required to meet the financial requirements of the county when he presents proposed operating and capital budgets to the council.

As in the supervisor form, the administrator has no authority over any elected officials of the county whose offices were created by the state Constitution or laws, with the exception of applying general organizational policies adopted by the council. And, except for purposes of inquiries and investigations, the county council shall not deal with county officers and employees who are subject to the direction and supervision of the administrator except through the administrator. Neither the council nor its members are to give orders or instructions to county employees. The council may, however, provide general direction for county departments and employees through policies adopted by the council.

The Council-Manager Form

Only two counties in South Carolina have adopted the Manager form. The council in the council-manager form of government shall consist of not less than five nor more than 12 members. As in the other forms of county government, the council members are elected for either two or four year terms of office. The county manager is an appointed official who reports to the county council. His powers and duties are identical to those of the county administrator discussed above. In fact, the differences between the council-manager and council-administrator forms of county government concern the county treasurer and auditor, and the number of council. State law provides that in the manager form of government the **treasurer** and **auditor may be appointed** by the county council rather than elected. The council must determine the method of selection and, if appointive status is preferred, must pass an ordinance to that effect. Once made appointive officers, the auditor and treasurer are subject to control by the council and the manager in the same manner as other appointed department heads of the county. Similar restrictions apply in the manager form regarding council's powers over elected officials as in the other forms of county government.

General Powers of County Government

The general powers of county governments are designated in state law in section 4-9-30 of the South Carolina *Code of Laws*. Counties today have the power to tax and spend for a wide variety of purposes. The power of counties to determine what they would tax was not clearly stated in the Home Rule Act, however. This power is often referred to as **fiscal home rule**. Thus, for several years following the passage of the act in 1975 it was felt that fiscal home rule was not included in overall home rule powers granted to cities and counties.

However, a 1993 South Carolina State Supreme Court case, **Williams v. Town of Hilton Head Island**, said that the Home Rule Act and the power of local governments should be interpreted broadly to legislate for the public health, safety and welfare (police powers). In so doing, the Court struck down **Dillon's Rule** in South Carolina which said that local governments have only those powers specifically authorized by the state. This decision set off a fierce debate in the state, and particularly in the state legislature, over local taxing powers. This debate was resolved in 1997 with the passage by the state legislature of the **Local Government Fiscal Authority Act**.¹⁰ This act amended a number of other laws and set limits on revenue raising by cities and counties. Specifically, it said that after December 31, 1996 no new tax could be imposed by a city or county unless specifically authorized by the legislature.

The Fiscal Authority Act set a few other minor limits on taxation, but it also authorized three new taxes. These are the **capital projects sales tax**, the **local accommodations tax**, and the **local hospitality tax**. The capital projects sales tax authorizes a levy of a one percent sales tax, if approved by voters in a referendum, in a county to pay for capital projects in a county or city. The tax must expire when the projects are paid for, or seven years after its imposition, whichever comes first. The accommodations tax refers to new authority for a city or county to levy up to a three percent accommodations tax (a tax on lodging) to be used for tourism related projects and programs. [This expanded an accommodations tax authority already available.] Finally, the hospitality tax is a grant of authority to cities and counties to levy up to a two percent tax on prepared meals and beverages to also be used for tourism and related projects.

With the passage of the Fiscal Authority Act, the General Assembly made it clear that cities and counties cannot impose taxes that are not specifically authorized by general state law. This was a reminder that local governments remain creatures of the state, even with some degree of home rule.

The State Constitution and the Home Rule Act does give counties an expanded service delivery role though. Article VIII of the South Carolina Constitution was revised in 1973 and provided counties authority to provide city-type services. Traditional county functions are retained, such as law enforcement, road and bridge construction and maintenance, but new services are now permissible. Now they can engage in water, sewer, solid waste collection and disposal, transportation, planning, economic development, recreation, hospitals and medical care and public health services among others. The State Constitution requires, however, that before a county acquires or constructs "water, sewer, transportation or other utility systems and plants other than gas and electric" utilities, a referendum must be held.¹¹ Garbage collection and disposal has been interpreted to be a public utility by a 1981 Attorney General's opinion.

Counties have the power to buy and sell property, to enter into contracts, to exercise the power of eminent domain, to assess and levy ad valorem property taxes and uniform service charges, including the power to tax different areas at different rates related to the nature and level of governmental services provided. Such areas are called **special tax districts** and specific procedures are outlined in state law for their creation. Basically this provision of state law was intended to put an end to the creation of special purpose districts by local legislation in the General Assembly. Indeed, Article VIII of the State Constitution specifically says that "no laws for a specific county shall be enacted" any longer by the state legislature. Rather, the legislature shall provide by general law for the structure, organization, powers, duties, functions and responsibilities of counties. In spite of this prohibition on **local acts**, or special legislation for individual counties, such bills are occasionally still passed by the General Assembly. Unless challenged in a court of law, they are presumably valid.

One restriction on counties, however, is that county-wide taxes cannot be used to support services which a city government was already providing on or before March 7, 1973. This provision was aimed at preventing duplication of services or the preemption of existing city services by a county.

Additional general powers of counties include the power to establish county agencies, departments, boards and commissions, and to appoint the members of such bodies. By law the county council may not enlarge or alter the duties of county elected officials, other than in areas such as employee grievances, the establishment of an accounting and reporting system, a centralized purchasing system, and requiring the submission of annual fiscal reports by such officials.

Counties may develop personnel policies and procedures for county employees except for those officials directly elected by the people. Employment and discharge authority does not extend to any personnel employed in departments or agencies under the direction of an elected official or an official appointed by an authority outside county government. In addition, sheriff's deputies are interpreted to be "officers" and not "employees" and therefore not subject to county employment and discharge policies.¹² County policies prevail on wage rates. The salaries of elected officials may be increased by the county council, but may not be decreased during their term of office.

State law further provides that counties may establish accounting and financial reporting systems, regulate land use, regulate their bonded indebtedness, subject to state debt limitations, grant franchises outside of municipal boundaries, levy uniform license taxes upon persons and businesses, participate in multi-county projects, and enact ordinances to enforce the powers they have, as well as provide penalties not to exceed the penalty jurisdiction of magistrates courts.

Counties can carry out slum clearance and redevelopment work, conduct advisory referenda, require permits to regulate solicitation, abate nuisances and exercise other powers as authorized by general state statute. One noticeable omission in state law until 1989 was a clear grant to counties of general police powers. Act 139 of 1989 added section 4-9-25 of the S. C. **Code of Laws** so that now counties, like cities, have general police powers. Such powers give a government the right to legislate for the purpose of regulating public health, safety, welfare, morals and abatement of nuisances, so long as such regulations do not contradict constitutional

and statutory rights of citizens and general state law. Local government exercise of police powers under home rule was interpreted broadly in the case **Williams v. Town of Hilton Head** in which the S. C. Supreme Court explicitly struck down Dillon's Rule in South Carolina. Presumably counties would be given the same interpretation as cities received in the **Williams** case.

Another area in which questions have arisen has been the power of the county to regulate activities within city boundaries, such as through building permits. Such actions require the agreement of the affected city's governing body before the county may regulate activities inside its boundaries. Conversely, cities may regulate the subdivision of land and the layout of streets up to three miles outside their boundaries if the county formally agrees to the cities' regulatory activity.

As the foregoing discussion indicates, the powers of county governments are extensive. Yet, questions have and will continue to arise on occasion concerning specific actions a county may desire to undertake.

Counties, School Districts and Special Purpose Districts

Local governmental entities created by general state law, however, do not fall under the control of the county, nor do public service districts, school districts, special purpose governments and authorities created by the state. Indeed, the relationship of county government to school districts, which do not fall under the Home Rule Act, illustrates the confusion that can result from local legislation. (See [Figure 4 on school fiscal authority and county boards](#).) What we find is a confusing array of governmental entities such as County School Boards in some counties, as well as School Districts which have varying degrees of fiscal autonomy from county government. In some counties, the county council does have some control over the tax rate used by school districts. In others, they have no authority over school taxes whatsoever.

Special purpose governments, usually created by special local legislation, also are autonomous from county government oversight and control. Some special purpose districts have limited taxing power established in their enabling legislation. However, since most such districts have boards or commissions that are appointed, not elected, a question arose regarding whether their use of taxing powers was taxation without representation. The South Carolina State Supreme Court decided a case in 1997 in which it said it was.¹³ Confusion resulting from this case was dealt with in 1998 when the General Assembly passed a law recognizing the tax rates used at that time, and requiring that future tax increases be approved by the county council of the county a special district was located in.¹⁴

County Services

South Carolina counties, like cities, are general purpose local governments. This means they provide a variety of governmental services, usually under their police powers, but also as a result of state constitutional and statutory requirement. (In this regard they are different from special purpose governments which usually only provide one service, with a few exceptions.)

Every county provides law enforcement usually through the sheriff's office. (Two counties also have a county police department set up prior to home rule.) In addition, counties usually provide detention or jail facilities. Historically, counties have had some responsibility for roads and bridges as well, and still do while sharing this responsibility with the state which has oversight of a large number of roads in the interstate, primary, secondary and local road system, and with cities in many instances. (Counties are currently responsible for 32 percent of the state's road network versus the state controlling 64 percent and cities 4 percent.) Changes in the way state moneys are spend locally on roads have occurred in recent years with County Transportation Committees being created to replace the legislative delegation in setting priorities.

Most counties also deal with solid waste disposal as well. Indeed, this has become one of the most expensive services counties are involved with due to state and federal environmental mandates surrounding landfills.

Libraries are another commonly found responsibility of counties, although they are usually under the oversight of a library board appointed by the county council. County library boards are a good example of county entities that are also governed by state law which restricts county oversight over a local activity. State law says, for example, that county funding for a library system cannot be less than it provided in the prior year for the system.

Other services provided by counties range from courts to planning and code enforcement, recreation and emergency medical services. Services such as these find variations among the counties with some having relatively sophisticated programs while others are still developing programs. Examples of such variation include planning and zoning which may not be found in all counties, as well as building codes. Some counties in South Carolina have not adopted uniform local building codes and inspection programs. These tend to be rural counties.

Yet other services may be provided by the private sector in some instances and the county or another governmental entity in others. An example of this is water and sewer service, a service area assuming more prominence as growth comes to unincorporated areas. Another example would be hospital and health care. Some hospitals are special purpose governments, some are private, and others are public, usually county affiliated.

Most all counties are responsible for a number of governmental buildings, such as the courthouse, jail, office buildings and so forth. Some of these may be used more by state offices than county offices, which is often a source of some friction between county governments and the state when tax dollars must be raised to build and maintain such facilities.

Just as services vary from county to county, so do the methods of provision. Some county services are directly provided by the county with county employees. Other services, however, may be provided by private companies working under contract with a county, or under some type of franchise agreement. Still other services may be provided by another governmental entity, such as a city, or even a private, nonprofit agency under a contractual arrangement with the county. The fact that a county provides a service using someone other than county employees does not mean that the county surrenders its responsibility for the service, however.

Thus, county services vary from county to county somewhat. Methods of provision also vary. Cooperative service arrangements exist in many counties for services. Such money saving ideas are likely to become more frequent as governments struggle to restrain cost increases in services.

County Finances

Providing services requires money or revenue. Counties are required to adopt a budget each year that identifies all revenues the county expects to receive and how they will be spent. Budgeting and financial administration are important processes in each county and involve a number of different officials.

Although there can be some variation, at least five officials generally have important roles in the county financial administration. These are the **county executive** in those forms of county government that have one, the **Finance Director** (most counties have such a position but not all), the **Auditor**, **Treasurer** and **Assessor**. The Auditor and Treasurer are elected officials, except in the Council-Manager form of government, while the Assessor is appointed by the county council. The Assessor maintains information on taxable property and assesses the value of property for tax purposes. (See [Property Tax article](#) for more information and the State's role.) The Treasurer collect county taxes, issues checks and invests county funds, while the Auditor calculates property taxes and sends out tax notices. Many counties also hire a Finance Director to help oversee other matters such as payroll and purchasing and maintenance of financial records. The executive, such as Manager or Administrator, is responsible for preparing a budget annually and presenting it to the county council.

The budget is adopted by the council in all cases, regardless of form of government. Three readings are required to adopt the annual budget, and a public hearing. The budget establishes a property tax rate and other fees which may be charged each year. Counties differ from cities in that they set tax rates or collect taxes for different taxing districts within the county. These districts may be cities, special purpose governments, school districts, or other special tax districts created by the county itself. In addition, counties usually collect property taxes for most local governments in their jurisdiction and transfer the money to them rather than have them operate a duplicate collection system. (A few cities do collect their own property taxes, but this is rare in South Carolina.)

State law dictates a great deal of policy affecting county budgeting and finance. It establishes, for example, a uniform **fiscal year** of July 1 through June 30 for all counties. It requires them to adopt an annual **operating and capital budget**. Spending decisions made during the year that are not included in the budget must be adopted as **supplemental appropriations** following similar procedures used in the annual budget process.

South Carolina's counties rely on several revenue sources for most of their revenue. In 1997 the state legislature made some important changes in local government finance that affect counties and cities in the Local Government Fiscal Authority Act. This act prohibits a county from adopting any new tax unless authorized by state law. It authorizes, however, three taxes in addition to the property tax. These are the **Capitol Projects Sales Tax**, the **Local Accommodations Tax** and the **Local Hospitality Tax**.

It also requires that the annual budget be approved by a **positive majority vote** of the council, meaning a majority of the entire membership of the council and not a simple majority. A tax millage rate limitation is also contained in the law tied to the consumer price index.

Counties are authorized to charge fees for services. New fees require public notice and a public hearing before adoption. Revenues from fees must be used to pay the costs of the service or program for which they are levied. If revenue from a fee exceeds five percent of the county's prior total budget, the revenue must be kept in a fund separate from the general fund. (Cities also have a similar requirement.)

Boundary Alteration

South Carolina's Constitution provides for a maximum of 46 counties. However, within that number new counties may be created or the boundaries of existing counties changed. Today most boundary alteration proposals originate within a county when citizens of a specific geographic area desire to annex to an adjacent county. The procedures for such a change are outlined in state law and will be briefly reviewed below. In addition, state law and the Constitution provide for governmental consolidation within a county, such as city-county consolidation, and county-county consolidation. No city-county consolidation has occurred thus far, however. Many observers today feel that further refinement is needed in some of the provisions of the consolidation statute. [See [Figure 5 on Consolidation Procedure.](#)]

When a county's boundary is proposed for alteration, the change must first pass constitutional muster. These include a requirement that a county not have less than 500 square miles of land, less than \$2 million of assessed taxable property, or a population of less than 15,000. In addition, a county's boundary cannot be altered if it would move a boundary to less than 8 miles from the county courthouse.

If these restrictions pose no problem, then an alteration may be proposed by a county council (in the losing county) or by a petition of ten percent of the registered voters in the area desiring to move to another county. Funds must be deposited to cover various costs associated with the proposed change by the petitioners. The Governor appoints an annexation commission to study the change and have a survey prepared. Plats are filed and a report made to the Governor, who then may order an election in the area proposing to shift location, and in the gaining county. Two thirds of those voting in the area wanting to shift counties must vote in the affirmative, and a majority of those voting in the county which would gain territory must also approve. The General Assembly must provide final approval of such a change.

Since South Carolina is still covered by the federal Voting Rights Act, proposals for boundary alteration generally would require United States Justice Department approval as well. Such approval is not automatic and may end a proposed change without it ever going to an election.¹⁵

Conclusion

Counties are a "hybrid" form of local government, operating both as an administrative arm of the state and as an urban service provider. Cities are primarily created in response to local needs and are not required to perform local services for the state government. Counties and cities differ in other important ways as well as described in this module.

First, counties are a higher level of government in a sense, meaning they encompass cities in their territorial boundaries while cities are smaller typically and are not as encompassing, or geographically comprehensive. In South Carolina, for example, Orangeburg County includes 17 cities within its boundaries. Other counties also contain a number of cities. (See [Figure 6 on numbers of cities in counties.](#))

Second, city residents are county residents also, but not all county residents live in a city. [The one exception in the United States is Virginia where cities are legally separate from counties.] Thus, county residents in unincorporated areas are not residents or citizens of a city. Counties therefore provide some services which go to both city residents and non-city residents.

Third, counties have a more diverse population to serve than most cities. Some of their residents live in a city, some in suburbs, small towns or rural areas. Unlike cities, then, counties govern an entire urban area, including fringe or suburban areas that cities lack jurisdiction over. But, they also encompass rural areas and the small communities in them as well as farms. This diversity subjects the county to a much wider range of demands than their city counterparts face. Examples may include pressure to preserve farm land, regulate large farming operations such as animal farms, mining operations, and other activities that a city might not confront, but at the same time have to deal with suburban communities that want zoning protection, animal control, high levels of police and fire protection and leisure services.

Finally, counties operate with governmental structures which are much more decentralized and fragmented than cities. They have independently elected department heads and officials whose duties are determined by state law rather than local law.

For sizable numbers of South Carolinians and Americans counties are their only general purpose local government. Thus, they rely on it for most of their local services. Indeed, for a growing number of people who live in suburban areas of our larger cities, the county is a "suburban" form of government meeting their need for city-type services, or supplementing the services provided by small, limited-service suburban city governments which are incapable of providing some needed services. Growth and its management is increasingly the challenge confronting county governments.

South Carolina's counties are important vital links in the governmental chain today. Home rule has vastly expanded their powers and given them new and increased responsibilities. Growth and urbanization have changed their role in this state and the nation as a whole. One thing is certain, they will continue to play a most important part in the lives of many people.

Endnotes

¹ Marando, Vincent L. and Robert D. Thomas. **The Forgotten Governments: County Commissioners as Policy Makers**, Gainesville, Fla.: The University Presses of Florida, 1977, p. 1.

² *Ibid.*, pp. 4-6

³ See **Baker v. Carr**, 369 U. S. 186 (1962) and **Gray v. Sanders**, 83 S. Ct. 801 (1963) which dealt with the county unit system of voting in statewide elections. This assured, in South Carolina for example, that each county had one senator in the state senate. These cases prohibited this system. The case **Reynolds v. Sims**, 84 S. Ct. 1362 (1964) and **Westberry v. Sanders** 84 S. Ct. 526 (1964) decided that both houses of a state legislature must be apportioned on the basis of population, or one-man, one-vote.

⁴ S. C. *Code of Laws*, 4-9-10.

⁵ S. C. *Code of Laws*, 4-9-310.

⁶ S. C. *Code of Laws*, 4-9-410.

⁷ S. C. *Code of Laws*, 4-9-100.

⁸ S. C. *Code of Laws*, 4-9-610.

⁹ S. C. *Code of Laws*, 4-9-620.

¹⁰ Act 138, **Fiscal Authority Act of 1997**. The phrase Local Government Fiscal Authority Act was used in the consideration of this act but does not appear in the act itself. This act actually amended various provisions of the S. C. **Code of Laws** to accomplish its purpose. See Roy D. Bates, **Forms and Powers of Municipal Governments**. Module one of Governing Our Cities series. Center for Governmental Services, Institute for Public Service and Policy Research, University of South Carolina, Columbia, SC, 1997.

¹¹ S. C. *Constitution*, Article VIII, section 16.

¹² See **Heath v. Aiken County**, 295 SC 416, 368 SE 2nd 904, 1988.

¹³ **Don Weaver and Richland County Council v. Recreation District of Richland County**, opinion 24696, October 13, 1997.

¹⁴ **Bill 757** (1998), S. C. General Assembly.

¹⁵ The reader should refer to the statutes for a more detailed discussion of boundary alteration. See section 4-5-120 et seq.

Figure 1

South Carolina Counties

County	Population Size
	Population (1996)
Abbeville	24,275
Aiken	133,130
Allendale	11,471
Anderson	156,558
Bamberg	16,702
Barnwell	21,640
Beaufort	102,735
Berkeley	132,502
Calhoun	13,724
Charleston	277,721
Cherokee	48,003
Chester	33,488
Chesterfield	39,794
Clarendon	29,406
Colleton	36,893
Darlington	65,319
Dillon	29,574
Dorchester	84,920
Edgefield	19,051
Fairfield	22,305
Florence	123,365
Georgetown	51,555
Greenville	345,173
Greenwood	62,789
Hampton	19,098
Horry	163,856
Jasper	16,365
Kershaw	47,279
Lancaster	57,164
Laurens	61,614
Lee	18,537
Lexington	195,606
McCormick	9,432
Marion	34,895
Marlboro	29,770
Newberry	34,268

Oconee	62,643
Orangeburg	87,324
Pickens	103,983
Richland	292,601
Saluda	16,843
Spartanburg	242,962
Sumter	107,161
Union	30,709
Williamsburg	37,244
York	147,299
Total	3,698,746

Figure 2

Powers of the County Supervisor

- serving as chief administrative officer of the county
- executing the policies and legislative actions of the council
- directing and coordinating the operations of the county
- preparing annual operating and capital budgets for the council
- supervising the expenditure of county funds
- preparing reports for the council on finances and administrative activities
- recommending measures to the council for adoption
- serving as presiding officer of the council and voting in ties
- serving as official spokesman for the council inspecting the books, accounts, records, or documents pertaining to the property, money or assets of the county
- being responsible for the administration of the county's personnel policies approved by the council, including salary and classification plans
- being responsible for the employment and discharge of personnel, including the county attorney, subject to the appropriation of funds by council

Figure 3

Powers of the County Administrator

- serving as chief administrative officer of the county
- executing the policies, directives and legislative actions of the council
- directing and coordinating operations of the county
- preparing annual operating and capital budgets for the council, and requiring such reports, estimates and statistics as necessary from county departments and agencies
- supervising the expenditure of appropriated funds
- preparing financial and administrative reports for the council
- administering county personnel policies, including salary and classification plans approved by council
- employing and discharging county personnel, subject to council appropriation of funds for that purpose
- performing other duties as required by the council

Figure 4

Fiscal Autonomy of South Carolina School Districts

Total independence: school board establishes school tax rate	21 districts
Limited independence	
Referendum required to exceed a specified tax rate	14 districts
County council must approve rate above a specified limit	4 districts
Legislative delegation must approve rate above a specified limit	1 district
Special law required to exceed a specified limit	1 district
County Board may increase/referendum above a specified limit	12 districts
Statutory cap exists on school taxes	
County council must approve tax rate above cap	2 districts
Voter referendum required to exceed cap	1 district
Legislative delegation must approve tax rate above cap	2 districts
No authority to set the school tax rate exists at district level	
Legislative delegation approves school districts budget	3 districts
Town meetings held to approve budget	4 districts
County council approves school budgets and set tax rate	21 districts

Source: South Carolina School Boards Association.

Figure 5

Consolidation Procedures for Local Governments in

South Carolina

The first step is creation of a consolidated government charter commission of 18 members. It can be created at the request of a county governing body, or upon petition of 10 percent of the registered voters in the county. Six members are appointed by the county council, six members must be residents of cities in the county based on an appointive index based on population (no city can have more than four members, and six members are appointed by special purpose districts in a manner similar to the city appointments.

Any city or special purpose district may voluntarily exclude itself, or opt-out from consideration as a member of the proposed consolidated government.

Within 10 days of appointment of the charter commission's members, the county council chairman must call for an organizational meeting. A majority of the members of the charter commission constitutes a quorum for doing business, but recommendations of the commission require a 2/3's vote. The commission may draft a proposed consolidated government charter, subject to guidelines in the state law.

The charter commission must complete its work within 12 months of its appointment. It cannot make recommendations regarding school districts. No local constitutional officers can be abolished. Three public hearings must be held during the commission's deliberations.

Upon 2/3's vote of the commission, a proposed charter is forwarded to the county council. The council is to call for a referendum on the question within 60 to 90 days. The charter is effective if approved by a majority of the voters in the county, but each city's and special purpose district's voters must approve it as well by a majority vote or these governments are not included in the consolidated government.

Figure 6

South Carolina Counties with the Highest and

Lowest Number of Cities

Highest	No. of Cities	Lowest	No. of Cities
Orangeburg	17	Calhoun	2
Lexington	15	Cherokee	2
Charleston	13	Fairfield	2
Spartanburg	13	Jasper	2
Aiken	10	Lee	2
Anderson	9	Dillon	3
Florence	9	Edgefield	3
Hampton	9	Georgetown	3
York	9	Kershaw	3
Chesterfield	8	Lancaster	3
Horry	8	McCormick	3
Newberry	8	Saluda	3
		Sumter	3

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