



South Dakota Legislative Research Council

Issue Memorandum 95-20

A REVIEW OF LAWS AFFECTING COMBINING ELECTED COUNTY OFFICES

Introduction

Counties are one of the oldest forms of government, dating back to sixth century England. They were formed in America as a means of establishing local order prior to 1776. Today, according to the National Association of Counties, there are more than 3,000 counties in the United States. Most of them contain fewer than 100,000 people. Throughout time, counties have changed very little. Most of them have the same organizational structure and fill largely the same roles they did when they were first incorporated. Counties have traditionally provided a variety of services to their citizens including law enforcement, public health services, and welfare services. Their stability in this ever changing world is applauded by some. Others think of it as simply a failure on the part of counties to adapt to society's changing needs.

Constitutional History

The idea of combining county offices in South Dakota is certainly not a new one. Article IX, section 5 of the *South Dakota Constitution*, enacted in 1964, allowed a county's board of commissioners to submit proposals to the electors for consolidation of county offices within the county. It remained an option for counties until 1972 when the state's voters approved an amendment to Article IX of the Constitution which eliminated the constitutional status of county officers. Conversely, the same

amendment also extended home rule provisions to counties. Thus, any county adopting a home rule charter has the authority to combine its own offices or combine its offices with the offices of other home rule counties. It is important to note, however, that only two counties in South Dakota, Todd and Shannon, have home rule charters, and they were not adopted until 1982.

Legislative History

1976

The Legislature, in 1976, passed Senate Bill 8, which provided each county the option of consolidating two or more of its offices. The law gave the board of county commissioners in any county the authority to submit such a question to the voters of the county, either by ordinance or by having received petitions containing the signatures of at least ten percent of the registered voters in the county. The law stipulated that, if such a ballot measure passed, the officer of the combined office would then be elected at the next general election and take office the following January.

1987

The statute allowing the combining of county offices remained static until 1987 when House Bill 1318 was enacted. It increased the required number of signatures needed on certain local government petitions

from ten percent to fifteen percent of the county's registered voters at the time of the preceding general election.

1988

Just one year later in 1988, a county's authority to combine offices was expanded by House Bill 1243, and that version of the law is still in effect today. Now, not only can counties combine offices within the confines of their own courthouses, but they can also combine with offices of other counties. It is still a requirement, however, that the question be placed on the ballot in each county affected, either by ordinance of its boards of commissioners or by local petition, and approved by the voters.

Implementation

Although laws allowing counties to combine offices have been in effect in one form or another for the past 19 years, and it was constitutionally permitted in years prior to that, no counties have combined any of their offices nor have they combined with offices of other counties. In fact, it is an idea which has only gotten beyond the discussion stage in one county. In 1990, the Pennington County Board of Commissioners placed on the ballot, by ordinance, the question of whether or not to combine their offices of auditor, treasurer, and register of deeds. The voters of the county did not look upon the idea favorably. According to records in the Pennington County Auditor's office, the measure failed by almost a three-to-one margin.

In short, the idea of combining county offices has generated a lot of dialog, but little interest. Until such time as it is tested, no one will know for sure if it saves money or if

the quality of services can be improved or at least maintained. Plus, what works in some counties may not be feasible in others. In this regard, the state has given individual counties the authority to decide what is best for them, and thus far, none of them has tried this approach.

Conclusion

In recent years, counties in rural areas, in particular, have faced special challenges. As the population continues to migrate from rural areas to urban areas, rural counties must try to provide the same level of services to a declining population. It is a difficult task because not only have their tax bases eroded, but also the support they once received from state governments and other local governments has lessened. Counties have also been hard hit by federal program cutbacks, and there are likely more to come.

South Dakota's counties certainly are not exceptions to this. They feel the same pressures as rural counties in other states. They hear the public outcry over high property tax rates, and their budgets are being more closely scrutinized than ever. In this climate, combining county offices, along with other potential cost-saving proposals for counties such as privatizing services or entering joint powers agreements with other local governments, is sure to be contemplated.

This issue memorandum was written by Clare V. Cholik, Legislative Librarian for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.
