

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1009

By: Bryant and Thornbrugh

COMMITTEE SUBSTITUTE

An Act relating to county government; creating the County Government Reform Act; stating short title; allowing any county to adopt or amend a County Government Reform Charter; providing for designation of charter commission subsequent to resolution or petition; requiring submission of certain question to voters; specifying contents of such question; providing for replacement of charter commission members; providing for certain county officers to provide services to charter commission; permitting county to expend monies for certain expenses; setting out provisions of charter; requiring charter to provide for governing body; limiting term of service of governing body; providing for powers and duties of governing body; allowing charter to provide for organization, reorganization, establishment and administration of county government; allowing charter to authorize the creation or consolidation of any county office, department or agency and providing procedures; authorizing any county with such charter to levy, assess and collect taxes and providing limit thereto; allowing county to amend its charter; authorizing county with charter to borrow money and issue obligations if authorized by a vote of registered county voters; providing for issuance of county obligations; requiring charters to make provisions for abandonment, revocation and amendment of charter subject to a vote of the registered county voters; providing for self-execution of charter; construing act; allowing county to adopt the statutory council-manager form of county government; setting forth powers and functions; providing for exercise of certain powers; providing for county to be divided into certain number of districts; establishing governing body; setting forth qualifications for council members; setting forth powers and duties of council; requiring county manager to administer certain administrative services; requiring the council to meet at certain times; providing for a quorum; allowing council to determine certain rules; authorizing council to appoint county manager; setting forth qualifications for county manager; permitting self-appointment to certain offices; prohibiting compensation for certain appointments; prohibiting council members from being appointed county manager; stating that county manager is the chief executive officer; setting forth powers and duties of county manager; allowing for appointment of acting county manager under certain

circumstances; authorizing council to appoint county manager under certain circumstances; allowing council to suspend or remove county manager; requiring the county manager to be county purchasing agent; stating that purchasing agent subject to certain laws; permitting council to transfer certain duties; providing for appointments, promotions, and removals of employees; permitting establishment of certain personnel administration; providing for the suspension and demotion of officers and employees by county manager; authorizing appointment of election of successor of certain officer or employee; repealing Sections 1, 2, 3, 4 and 5, Chapter 220, O.S.L. 1992 (19 O.S. Supp. 1998, Sections 8.1, 8.2, 8.3, 8.4 and 8.5), which relate to the County Home Rule Charter Act; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8.6 of Title 19, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 20 of this act shall be known and may be cited as the "County Government Reform Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8.7 of Title 19, unless there is created a duplication in numbering, reads as follows:

Any county in this state may adopt or amend a County Government Reform Charter for county government, as set forth in Sections 2 through 5 of this act, which specifies those powers appropriate for the government and which are not inconsistent with the Oklahoma Constitution and laws of this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8.8 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. Upon a resolution approved by a majority of the members of the board of county commissioners of the county or upon a petition signed by registered voters of the county equal in number to ten percent (10%) of the total number of votes cast in the county for

Governor at the immediately preceding gubernatorial election, the members of the proposed charter commission shall be designated as follows:

1. Fifteen members shall be designated by the board of county commissioners. Five members shall be designated by each county commissioner, at least one of whom shall be a resident of an unincorporated portion of the county or a resident of a municipality other than the largest municipality located within the county. The members designated by each county commissioner shall reside in the district of that county commissioner;

2. Two members shall be designated by the county court clerk, at least one of whom shall be a resident of an unincorporated portion of the county or a resident of a municipality other than the largest municipality located within the county;

3. Two members shall be designated by the county clerk, at least one of whom shall be a resident of an unincorporated portion of the county or a resident of a municipality other than the largest municipality located within the county;

4. Two members shall be designated by the county treasurer, at least one of whom shall be a resident of an unincorporated portion of the county or a resident of a municipality other than the largest municipality located within the county;

5. Two members shall be designated by the county assessor, at least one of whom shall be a resident of an unincorporated portion of the county or a resident of a municipality other than the largest municipality located within the county; and

6. Two members shall be designated by the county sheriff, at least one of whom shall be a resident of an unincorporated portion of the county or a resident of a municipality other than the largest municipality located within the county.

The members shall be designated and their names filed with the county election board within thirty (30) days from the date the

resolution was adopted by the board of county commissioners or the date the petition was filed with the board. All members shall be residents of the county.

Upon the designation of the members of the proposed charter commission as provided in this subsection, the county election board shall submit to the voters of the county at the next November general election not less than ninety (90) days thereafter, or at a special election called for such purpose, the question:

"Shall a charter commission, to be composed of the following members: _____ be authorized to frame a proposed charter or amend an existing charter for the County of _____?"

YES

NO"

Nothing in the County Government Reform Act shall be construed to prevent any officer of any municipality located within the county from serving as a member of the charter commission.

B. If the proposition receives approval by a majority of the votes cast thereon, the chairman of the board of county commissioners of the county shall, within sixty (60) days, call an organizational meeting of the charter commission. The commission is hereby authorized to select a chairman and other officers as may be necessary to adopt rules of procedure and to draft a proposed County Government Reform Charter or amendments to an existing charter. The county clerk shall provide any necessary secretarial staffing for the commission. The district attorney shall provide any necessary legal advice or counsel to the commission. The county shall be permitted to expend monies for incidental office supplies, including the costs of copying, for the commission. The commission shall complete its work on a proposed charter or amendments to an existing charter within one (1) year from the time the organizational meeting of such commission was convened. Any proposed charter or amendments

to an existing charter shall be published by the commission in a newspaper of general circulation in the county on at least two occasions. At least seven (7) days shall elapse between the first and last day of publication. The first day of the publication shall be within forty-five (45) days from the date the commission submits its proposed charter or amendments to an existing charter. Copies of the proposed charter or amendments to the existing charter shall be made available for distribution to the qualified voters of the county at the place where meetings of the board of county commissioners of the county are usually held.

C. If any charter commission member is unable or unwilling to serve, the member shall be replaced with a new commission member by the appointing authority who designated the original commission member. The new member shall have the same duties, powers and responsibilities as the original commission member.

D. Within ninety (90) days after the commission submits its proposed charter or amendments to an existing charter to the board of county commissioners of the county, the officer or agency responsible for certifying public questions shall submit to the voters of the county at the next regular countywide election or at a special election which may be called for the purpose by the board of county commissioners, the question:

"Shall the proposed charter (or amendments) for _____ County be adopted?

YES
 NO"

The charter or the amendments shall become effective if approved by a majority of the votes cast thereon, subject to provisions of the Oklahoma Constitution and laws of this state.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8.9 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. A charter shall set forth the structure of the county government and the manner in which it is to function. The charter shall provide for a governing body, which may be other than as presently constituted, which shall be elective, and service shall be upon the qualifications, terms, plan of representation and conditions of tenure and compensation as may be fixed by the charter. The charter shall provide that the county government shall be separate and distinct from any municipal government within the county. The term for service of the governing body shall not exceed four (4) years. In addition to the powers and duties provided by the charter, the governing body shall exercise all powers and discharge all duties which, in the absence of the provisions of the charter, would devolve by law to the board of county commissioners or any other county governmental board, agency, commission or council. The charter may provide for the organization, reorganization, establishment and administration of the government of the county, including the control and regulations of the performance of and the compensation for all duties required in the conduct of county affairs. The charter may authorize the governing body to create, consolidate, or eliminate any county office, department or agency, define the duties thereof, fix the compensation for service therein, make the same elective or appointive, prescribe the time, qualifications and conditions of tenure in any such county office, department, or board agency, and set forth the terms and procedure for removal from such county office.

B. Any county electing to operate pursuant to such charter as authorized by the provisions of this act shall have the power by charter provision to levy, assess and collect taxes pursuant to the provisions of Section 20 of Article X of the Oklahoma Constitution. The limit of the aggregate taxes which may be levied, assessed and

collected by such county shall not exceed the limit or total fixed, or hereafter fixed, by the Oklahoma Constitution or by statute.

C. In addition to the powers provided in this act and in addition to powers included in County Government Reform Charters, any county may amend its charter to include powers, functions and duties which may be provided for by the Oklahoma Constitution or by statute and powers to enact county legislation subject to limitations imposed by the Oklahoma Constitution or by statute.

D. Any county operating pursuant to such charter as authorized by the provisions of this act shall have the power to borrow money for all lawful purposes under its charter, including the refunding of a lawful debt, in a manner conforming to the Oklahoma Constitution and the general laws of the state, and may issue obligations for such purposes. Such obligations and such tax to be levied to meet the liability shall not be valid unless authorized by a vote of the registered voters of the county pursuant to the provisions of the laws of this state. County obligations maturing after a period of five (5) years shall be issued to mature serially, fixing the first maturity of principal at a time not to exceed two (2) years after the date of the issuance of such obligations. The obligations may pledge the full faith and credit of the county, but in no event shall the aggregate obligations so issued, in principal amount outstanding at any one time, exceed the constitutional limits for such obligations and indebtedness, and its supporting tax shall constitute a first and superior lien upon the property taxable in such county.

E. Charters adopted shall make appropriate provisions for the abandonment, revocation and amendment of the charter, subject only to the requirement that a majority of the votes cast thereon must approve the proposal. The provisions of the County Government Reform Act shall be self-executing.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8.10 of Title 19, unless there is created a duplication in numbering, reads as follows:

Nothing contained in this act shall be deemed to authorize the adoption of charter provisions contrary to or inconsistent with the sovereignty and established public policies of this state, and no provision having such effect shall be valid.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.1 of Title 19, unless there is created a duplication in numbering, reads as follows:

Any county in this state may adopt the statutory council-manager form of county government as set forth in Sections 6 through 20 of this act which specifies those powers appropriate for the government and which are not inconsistent with the Oklahoma Constitution and the laws of this state.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.2 of Title 19, unless there is created a duplication in numbering, reads as follows:

The form of government provided by Sections 6 through 20 of this act shall be known as the statutory council-manager form of county government. Counties governed under the statutory council-manager form shall have all the powers, functions, rights, privileges, franchises and immunities granted, or which may be granted, to counties. Such powers shall be exercised as provided by law applicable to counties under the statutory council-manager form, or if the manner is not prescribed, then in such manner as the council may prescribe.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.3 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. A county to be operated under a statutory council-manager form shall be divided into at least five districts. Each district

shall be based on the equitable apportionment of the population and the convenience and contiguity of the districts.

B. The governing body of a statutory council-manager county shall consist of one council member from each district of the county.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.4 of Title 19, unless there is created a duplication in numbering, reads as follows:

The council members shall be residents and registered voters of the county. The council members from districts shall be actual residents of their respective districts at the time of their candidacy and election.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.5 of Title 19, unless there is created a duplication in numbering, reads as follows:

All powers of a statutory council-manager county, including the determination of matters of policy, shall be vested in the council. The council may:

1. Appoint and remove the county manager as provided by law;
2. Enact legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;
3. Raise revenue, make appropriations, regulate salaries and wages, and all other fiscal affairs of the county, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;
4. Inquire into the conduct of any office, department or agency of the county, and investigate county affairs, or authorize and provide for such inquiries;
5. Appoint or elect and remove its own subordinates, members of commissions and boards and other quasi-legislative or quasi-judicial officers as provided by law, or prescribe the method of appointing or electing and removing them; and

6. Create, change and abolish offices, departments and agencies, and assign additional functions and duties to offices, departments and agencies established by this act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.6 of Title 19, unless there is created a duplication in numbering, reads as follows:

Except for the purposes of inquiry, the council and its members shall deal with the administrative service of the county solely through the county manager. The council and its members may not:

1. Direct or request the county manager or other authority to appoint or remove officers or employees;

2. Participate in any manner in the appointment or removal of officers and employees of the county, except as provided by law; or

3. Give orders on ordinary administrative matters to any subordinate of the county manager either publicly or privately.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.7 of Title 19, unless there is created a duplication in numbering, reads as follows:

The council shall meet regularly at least monthly at such times as it may prescribe by ordinance or otherwise. The majority of all the council members may call special meetings.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.8 of Title 19, unless there is created a duplication in numbering, reads as follows:

A majority of all the members of the council shall constitute a quorum, but a smaller number may adjourn from day to day. The council shall determine its own rules.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.9 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. The council shall appoint a county manager for an indefinite term by a vote of a majority of all its members. The council shall

choose the county manager on the basis of executive and administrative qualifications of such person with special reference to actual experience in, or knowledge of, accepted practice with respect to the duties of the office. At the time of the appointment, the county manager need not be a resident of the county or state, but during the tenure of the office, the county manager shall reside within the county.

B. The county manager may appoint himself or herself, or the council or other authority may appoint or elect the county manager to other offices and positions in the county government, subject to regulations prescribed by ordinance. However, the county manager may not receive compensation for service in such other offices or positions.

C. No member of the council may be appointed city manager during the term for which such council member shall have been elected nor within two (2) years after the expiration of such term.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.10 of Title 19, unless there is created a duplication in numbering, reads as follows:

The county manager shall be the chief executive officer and head of the administrative branch of the county government. The county manager shall execute the laws and administer the government of the county, and shall be responsible therefor to the council. The county manager shall:

1. Appoint, and when necessary for the good of the service, remove, demote, lay off or suspend all heads of administrative departments and other administrative officers and employees of the county except as otherwise provided by law. The manager or the council by ordinance may authorize the head of a department, office or agency to appoint and remove the subordinates in such department, office or agency;

2. Supervise and control all administrative departments, officers and agencies;

3. Prepare a budget annually and submit it to the council and be responsible for the administration of the budget after it goes into effect, and recommend to the council any changes in the budget which the county manager deems desirable;

4. Submit to the council a report after the end of the fiscal year on the finances and administrative activities of the county for the preceding year;

5. Keep the council advised of the financial condition and future needs of the county, and make recommendations as the county manager deems desirable; and

6. Perform such other duties as may be prescribed by law or by ordinance.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.11 of Title 19, unless there is created a duplication in numbering, reads as follows:

The county manager, by letter filed with the court clerk, may appoint a qualified administrative officer of the county to be acting county manager during the temporary absence or disability of the county manager. The council may appoint an acting county manager whenever:

1. The manager fails to make such designation;
2. The council suspends the county manager; or
3. There is a vacancy in the office of county manager.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.12 of Title 19, unless there is created a duplication in numbering, reads as follows:

The council may suspend or remove the county manager or acting county manager at any time by a vote of a majority of all its members.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.13 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. The county manager shall be the county purchasing agent of the county. The county purchasing agent shall be subject to the provisions of Sections 1501 through 1507 of Title 19 of the Oklahoma Statutes.

B. The council may transfer some or all of the power granted to the county manager pursuant to the provisions of this section to an employee appointed by and subordinate to the county manager.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.14 of Title 19, unless there is created a duplication in numbering, reads as follows:

Appointments and promotions in the service of a statutory council-manager county shall be made solely on the basis of merit and fitness. Removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The council by ordinance may provide for personnel administration and regulation of personnel matters.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9.15 of Title 19, unless there is created a duplication in numbering, reads as follows:

An officer or employee may be suspended, demoted, laid off or removed by the county manager or other authority which has the power to appoint or elect the officer or employee. The county manager or other authority which has the power to appoint or elect the successor of an officer or employee may appoint or elect a person to act during the temporary absence, disability or suspension of such officer or employee, or, in the case of a vacancy, until a successor is appointed or elected and qualified. The council may ordain that a particular superior or subordinate or deputy of such officer or employee shall act in such cases.

SECTION 21. REPEALER Sections 1, 2, 3, 4 and 5, Chapter 220, O.S.L. 1992 (19 O.S. Supp. 1998, Sections 8.1, 8.2, 8.3, 8.4 and 8.5), are hereby repealed.

SECTION 22. This act shall become effective July 1, 1999.

SECTION 23. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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