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Bill Analysis

Legislative Service Commission

H.B. 655*

127th General Assembly
(As Reported by H. State Government & Elections)

Rep. Dolan

BILL SUMMARY

- Allows a board of county commissioners, by a majority vote of the board, or requires a board, upon petition by 1% of the electors, in a county having a population of 1.2 million or more according to the 2000 federal decennial census, to submit to the electors of the county the question of whether to adopt a restructured form of county government.

The restructured form of county government:

- Retains the board of county commissioners, who continue to be elected, but requires all members to be elected on the same date for four-year terms.
- Specifies that one member of the board must be elected specifically as president of the board and requires the president to recommend the county budget, any major transactions, and any appointments the board makes and to act as the executive officer for the county in transactions with external parties.
- Retains the county administrator, who acts as a chief operating officer of the county under the oversight of the president of the board.
- Retains the county sheriff.
- Retains the office of county prosecutor, but assigns the duty to act as legal advisor to the board of county commissioners and the various

* This analysis was prepared before the report of the House State Government and Elections Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

county and township boards, commissions, officers, and districts to a county law department, which is to be administered by a law department director.

- Eliminates the formerly elected offices of county auditor, county recorder, county treasurer, county coroner, and county engineer and replaces them with: (1) the department of finance, which is to be administered by a finance director, (2) a medical examiner, and (3) a director of the office of county engineer, each of whom is to be appointed by the board of county commissioners by a majority vote.
- Requires the board of county commissioners to appoint a county ombudsperson by a majority vote to receive, investigate, and seek to resolve all citizens' complaints against county government departments, agencies, and services.
- Requires the board of county commissioners to appoint a three-member human resource commission by a majority vote of the board to set appropriate standards and requirements for employment in county positions.
- Requires the chief administrative judge of the court of common pleas in the county to appoint the clerk of courts.

CONTENT AND OPERATION

Background; organization and governance of counties

The Ohio Constitution provides authority for the organization and governance of counties. Article I, section 1 provides that the General Assembly must provide by general law for the organization and government of counties, and can provide by general law for alternative forms of county government.

All counties in Ohio that are organized under the general statutory scheme have three county commissioners, two being elected at the time of the presidential election and one at the time of the gubernatorial election. Each county organized under the general statutory scheme has 11 elected officials consisting of the three county commissioners, an auditor, treasurer, prosecuting attorney, clerk of courts of common pleas, engineer, coroner, recorder, and sheriff. There is no chief executive officer, but rather, each officer possesses some executive authority.

Under Article X, section 3 of the Ohio Constitution, a county can adopt a charter to change its form of government. The charter can provide for the appointment of county officials who are otherwise elected under the general statutory scheme. Any charter must provide for "the exercise of all powers vested in, and the performance of all duties imposed upon counties and county officers by law." Summit County is the only county in Ohio currently operating under a charter.

Under Article X, section 1 of the Ohio Constitution, the General Assembly can provide by general law for alternative forms of county government. No alternative form can become operative in any county until it has been submitted to the electors and approved by a majority of the electors. Existing Revised Code Chapter 302. authorizes the electors of any county to adopt an alternative form of county government to replace the existing form. The electors can petition the board of county commissioners or the board can vote to have the question submitted to the electors. An alternative form must include either an elective county executive or an appointive county executive who serves as the administrative head of the county. The alternative form can authorize an expansion of the board of county commissioners, requires the appointment of an executive, and provides for the establishment of a series of departments. It appears that under this form of government the county commissioners are the policy-making and legislative body and the executive performs administrative and executive functions that are the responsibility of county commissioners in a general statutory form. To date, no county operates under an alternative form of county government.

There appear to be two primary differences between county charter governments and the alternative form of government under Chapter 302. The alternative form does not permit the elimination of any county elected official, as is possible under a charter. The charter affords greater flexibility while the alternative form is more specific and limited.

The restructured form of county government

Creation: submission to the electors

(R.C. 353.01 and 353.03)

The bill authorizes the board of county commissioners of a county with a population of 1.2 million or more according to the 2000 federal decennial census to adopt a resolution to cause the board of elections to submit to the electors of the county the question of adopting a restructured form of county government. The bill also requires the board, upon petition by 1% of the electors of the county as determined by the total number of votes cast therein for the office of governor at

the most recent gubernatorial election, to adopt a resolution to cause the board of elections to submit to the electors the question of adopting a restructured form of county government. The question must be voted upon at the next general election occurring not less than 75 days after the certification of the resolution to the board of elections. The restructured form contemplated by the bill is different from the alternative form in Chapter 302., but it too appears to be an "alternative form" as authorized by Article X, section 1 of the Ohio Constitution.

A resolution proposing a restructured form of county government is not in order if the question of choosing a commission to frame a county charter or of adopting a county charter is then pending before the board of county commissioners, has been submitted to the electors, or has been approved by the electors.

In submitting to the electors of the county the question of adopting a restructured form of county government, the board of elections must submit the question in language substantially as follows:

"Shall the county of adopt the restructured form of county government proposed under sections 353.01 and 353.02 of the Revised Code?

() For adoption of the restructured form of county government.

() Against adoption of the restructured form of county government."

At least 45 days before the election, the board of county commissioners must cause a copy of the restructured form of county government to be distributed to each elector of the county so far as is reasonably possible. If a majority of the votes cast on the proposition of adopting a restructured form of county government is in the affirmative, then that form becomes the form of government of the county.

Immediately following the election the board of elections must file a certificate of the results with the secretary of state.

Officers under the restructured form of county government

(R.C. 353.02)

The restructured form of county government has characteristics as follows:

The restructured form of county government retains the board of county commissioners, who continue to be elected. Each member of the board is to be elected on the same date and holds office for a four-year term, beginning on the first Monday of January next after the member's election.

One member of the board must be elected specifically as president of the board. The president must recommend the county budget, any major transactions, and any appointments the board makes. The president acts as the executive officer for the county in transactions with external parties.

In addition to fulfilling all duties vested in law in boards of county commissioners, the board must approve the county budget, any major transactions, and any appointments by a majority vote of the members of the board.

The restructured form of county government retains the county administrator who is to act as a chief operating officer of the county under the oversight of the president of the board. The board, after receiving a recommendation on the appointment from the president, must appoint the county administrator by majority vote.

The restructured form of county government retains the office of county sheriff, who continues to be elected as provided by law.

The bill restructured form of county government retains the office of county prosecutor, who continues to be elected as provided by law. The county prosecutor must fulfill all duties vested by law in a county prosecutor. However, the duty, otherwise vested in the county prosecutor to act as legal advisor to the board of county commissioners and various other county and township boards, commissions, officers, and districts (see R.C. 309.09, not in the bill), is vested instead in a county law department, which is to be administered by a law department director. The director must be appointed by a majority vote of the board.

The restructured form of county government eliminates the formerly elected offices of county auditor, county recorder, county treasurer, county coroner, and county engineer and replaces them with the following officers, each of whom is appointed by the board of county commissioners by a majority vote:

(1) The offices of county auditor, county recorder, and county treasurer are combined with the county office of budget and management and the title division of the clerk of courts into a new department of finance, which is to be administered by a finance director. The finance director must fulfill all the duties vested by law in county auditors, county recorders, and county treasurers and all functions of the county office of budget and management and of the title division of the clerk of courts. The department of finance must be organized in manner that separates functions into appropriate divisions.

The department of finance must include a division of internal audit, which is to be administered by a manager of the division of internal audit. The county

prosecutor must appoint the manager. However, the manager can be removed by the board of county commissioners at any time, with or without cause. A vacancy in the position of manager must be filled in the same manner as the original appointment.

(2) The office of county coroner is replaced by a medical examiner. The medical examiner must be a licensed forensic pathologist and otherwise must have the same qualifications (except election) prescribed by law for, and must fulfill all the duties vested by law in, county coroners.

(3) The office of county engineer is to be administered by a director. The director must have the same qualifications (except election) prescribed by law for, and must fulfill all the duties vested by law in, county engineers.

The clerk of courts is not elected, but rather is to be appointed by and serves at the pleasure of the chief administrative judge of the court of common pleas in the county. The clerk must have the same qualifications (except election) prescribed by law for, and must fulfill all the duties (except those of the title division) vested by law or rule of court in, clerks of court. The clerk can be removed or replaced by the chief administrative judge at any time, with or without cause.

The board must appoint a county ombudsperson by a majority vote of the board. The ombudsperson is to receive, investigate, and seek to resolve all citizens' complaints against county government departments, agencies, and services.

The board of county commissioners also must appoint a three-member human resource commission by a majority vote of the board. The commission is to set appropriate standards and requirements for employment in all county positions, including department heads. Each member must be experienced in personnel matters and supportive of equal opportunity employment.

Any officer or director appointed by a board of county commissioners under the restructured form of county government can be removed at any time by a majority vote of the board. A vacancy in any office appointed by a board of county commissioners must be filled in the same manner as the original appointment.

Timing of transitional appointments

(R.C. 353.03)

When the restructured form of county government is adopted, the board of county commissioners, the county prosecutor, and the chief administrative judge

of the court of common pleas are to make the appointments required by the restructuring to accommodate an orderly and organized transition. The officers holding office on the date of the election continue to hold office until expiration of their terms of office. The resolution must provide for adjusting the terms of members of the board of county commissioners who are elected during the transition as necessary to bring terms of those members into conformity with the restructured form of county government and can specifically designate a member who is elected during the transition as president of the board.

Discontinuance of restructured form of county government

(R.C. 353.04)

The bill specifies that a proposition to discontinue a restructured form of county government can be submitted to the electors of the county at any general election in the manner provided for the submission of a restructured form of county government.

Savings clause

(R.C. 353.05)

The bill contains a general savings clause that applies when a county government is restructured or when the restructuring is discontinued. The savings clause declares that the adoption or discontinuation of a restructured form of county government does not affect (1) an act that has been done or that has been ratified or affirmed, (2) a contract (other than a contract for personal services) or another right or obligation that has accrued or been established, or (3) an action, prosecution, or proceeding, whether civil or criminal, that exists or is pending when the restructured form of county government takes effect or is discontinued. Rights attach and actions, prosecutions, and proceedings are to be instituted or continued by, against, or before the department having jurisdiction or power over the subject matter of the action, prosecution, or proceeding. Rules, regulations, and orders that were lawfully promulgated before adoption or discontinuation of the restructured form of county government continue in force and effect until they are amended or rescinded as authorized by law. And when the restructured form of county government is adopted or discontinued, and the adoption or discontinuance causes a transfer of rights, duties, and powers from one county department or office to another, all the books, papers, documents, real and personal property, funds, appropriations and appropriation balances, and pending business pertaining to the transferred rights, duties, and powers also are to be similarly transferred.

Recommendations on county government structure sought

(Section 2)

The bill states that the 127th General Assembly recommends the creation of a panel to develop recommendations on changes to the array of boards and commissions to which boards of county commissioners make appointments.

HISTORY

ACTION	DATE
Introduced	12-09-08
Reported, H. State Gov't & Elections	---

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