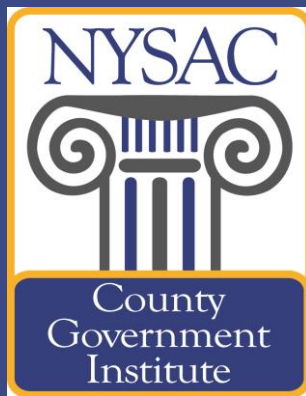


Foundations of County Government

NYSAC December 2021



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NEW YORK STATE
ASSOCIATION OF COUNTIES

A professional portrait of Patrick Cummings Esq. He is a middle-aged man with short brown hair, wearing glasses, a light blue suit jacket, a white checkered shirt, and a dark blue tie with a small pattern. He is looking directly at the camera with a slight smile. The background is a blurred outdoor setting with green foliage and a stone wall.

Patrick Cummings Esq
Counsel
NYSAC

The First Counties 1683

- Established by Act of British King
- We were a part of the First Assembly of the New York Colony – “The Dongan Laws” or the Kings Charter



The First Counties 1683

- Established by Act of the First Assembly of the New York Colony – “ The Dongan Laws”
- Created 12 counties and created the Office of Sheriff in each
- Sheriff of the county appointed by the Colonial Governor and could only serve one term
- Created a legislative body of freeholders to be elected in each county

Created 12 counties

- Albany
- Dutchess
- Orange
- Suffolk
- Cornwall
- Kings
- Queens
- Ulster
- Dukes
- New York
- Richmond
- Westchester

Created the Office of Sheriff

Sheriff of the county was appointed by the Colonial Governor

could only serve one term

New York State Constitution



New York State Constitution

- Basis of State Law and delineates the powers & authority of local government
- Basic structure has remained unchanged for over a century
- Can be amended through state legislation followed by voter referendum
- Action of state constitutional convention

Bill of Rights for Local Governments

- Every local government shall have an elected legislative body
- No local government can be annexed without approval of the voters through referendum
- Power to apportion costs of government services with authorization of the legislature
- Request the legislature to authorize establishment of forms of county government

Bill of Rights for Local Governments

- All offices not in the Constitution are elected or appointed by officials of local government
- Have the power of Eminent Domain
- Local governments can act jointly as authorized by the legislature
- State Legislature must adopt a statute of local governments

Legislature Empowered

To mandate programs and the
costs on units of local
Government including Counties

Public Employee Pension Systems

- City of New York Pension System
- New York State & Local Retirement System
- New York State & Local Police and Fire Retirement System
- New York State Teachers Retirement System

Article V, Section 7 NYS Constitution

“...membership in any Pension or Retirement System of the State or of a Civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired.”

Consolidated Laws Relating to County Government

- **Civil Service Law** – local civil service administration; the Public Employees Fair Employment Act (The Taylor Law)
- **Election Law** – the conduct of elections
- **Eminent Domain Procedure Law** – acquiring property through eminent domain
- **Highway Law** – construction & maintenance of county highways

More Consolidated Laws

- **Public Officers Law** - official oaths, resignations, filing of vacancies, removal from office, F.O.I.L., Open meetings law
- **Retirement & Social Security Law** – operation and benefits of state & local retirement systems
- **Local Finance Law** – Authorization and procedures relating to incurring debt
- **Tax Law** – authorization for sales & use taxed

Consolidated Laws

- **Vehicle & Traffic Law** – authorization for regulation by counties
- **Volunteer Firefighters Benefit Law** – disability and death benefits
- **Workers Compensation Law** – benefits for public and private employers; allows for county self insurance plans

Consolidated Laws

General Municipal Law - maintenance of reserve funds, planning activities, cooperative actions, public bidding requirements, urban renewal, conflicts of interest, industrial development agencies

State Statutes Affecting County Organization



- ✓ County Law
- ✓ Municipal Home Rule Law

The County Law

- Makes No Provision for an Elected Executive
- Vests all Authority in Board of Supervisors
- All powers exercised through local law or resolution
- Must elect a chair, to which it may delegate administrative duties on its behalf

Municipal Home Rule Law

- Delineates powers & restrictions on the adoption and amendment of local laws
- Grants authority to set powers, duties, qualifications of its officers & employees
- Adopt laws regarding term, composition & apportionment of legislative body
- Adopt or Amend a County Charter

County Charter Law

- Counties are empowered to adopt charter which establishes the structure of county government
- May provide for an elected executive
- Must provide for a legislative body
- Assign administrative or executive functions to elected and appointed officials

Adopting a Charter

- Resolution of legislative body or by petition of voters
- Charter may be drafted by legislative body or committee
- Charter commission appointed for the purpose of drafting
- Charter adoption, repeal, or amendment subject to referendum

County Organization



New York Counties

- 23 counties have adopted a County Charter, 18 with an elected executive (Montgomery in 2012, Ulster in 2009) and one Mayor (NYC)
- 16 counties have a Board of Supervisors
- 40 counties have a County Legislature
- 1 County has a Board of Representatives

Supervisor Legislator/Representative

What's in a name?

Board of Supervisors

- Generally has duties as a Town official as well as a county legislative body member
- Is the chief elected official of town government or represents an area within a city
- Votes by weighted vote – according to relative share of county population

Legislator/Representative

- Legislator/Representative are the same
- Represent a District with Equal Share of County Population in Charter Counties
- Fulfills “one person, one vote” requirements – all cast equal vote
- Weighted vote in non-charter counties

How Are They The Same?

- All serve as legislative body of the county
- All empowered to enact or repeal local laws & resolutions
- Make appropriations, levy taxes and incur debt
- Adopt an administrative code
- Adopt rules and regulations for its conduct and procedures

Elected Executives

- 18 Counties have an Elected Executive who can veto actions of the legislature
- Executive appoints all department heads, with confirmation of legislature
- Manages the internal operation of all Departments
- Chief Budget Officer of the County
- Veto actions of the legislative body

Counties with Appointed Administrative Official

- 22 Counties have created a County Administrator
- 11 Counties have created a County Manager
- 5 Counties have created the position through county charter
- 28 counties have created the position through local law

Appointed Administrative Official

- Official is delegated administrative functions by the legislative body
- Appointed by legislative body and serves at its pleasure
- Generally prepares annual budget for submission to the legislative body for adoption
- Oversees the day to day operation of county government

Legislative Administration

- 9 Counties provide administration through the legislative body
- Chair is delegated administrative authority
- Body may appoint an administrative assistant to the Board Chair
- Strong committee system may be established to provide oversight

Changing County Structure

- All Counties empowered to change structure
- Charter Counties – adoption, repeal or amendment needs voter approval through referendum
- Non-Charter counties can amend structure by local law
- Cannot abolish or diminish powers of elected official without referendum

QUESTIONS?



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