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COMMITTEES:
WAYS AND MEANS
HEALTH CARE

Report by
Senator Arthur E. Chase
with legislation to abolish
County Government
April 5, 1991

GOVERNMENT DOCUMENT
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SEP 19 1991
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SUMMARY

*Counties are an archaic level of government; havens for patronage; debt-ridden; and, inefficient.

*The system-wide reform of county government could save the people of Massachusetts between \$17 and \$34 million dollars.

*The cities and towns, not the counties, deliver local services in Massachusetts. The counties are largely irrelevant.

*The counties are strapped for cash. The Department of Revenue projects a shortfall this year of \$27.1 million in corrections budgets alone, and \$11.1 million in other county operations.

*New studies of county government in Massachusetts have been issued at a rate of one every three years over the past twenty years, without concrete results.

*The most recent report of the Joint Committee on Counties waffles on the elimination of county government.

*The following recommendations are based on studies of county government and numerous telephone conversations with county and state officials:

1. immediate elimination of county government, with a local option to retain it as a self-supporting regional service entity;
2. state takeover of all county courthouses;
3. state takeover of all corrections facilities and operations;
4. state takeover of all registries of deeds facilities and operations;
5. the Department of Revenue to provide an accurate accounting of all county assets and the savings to be had from the elimination of county government.
6. a commission appointed by the Governor to dispose of assets in the dissolved counties. (It is estimated that counties control assets valued between \$500 million and \$1 billion.)

INTRODUCTION

County government in Massachusetts has been the subject of numerous studies during the past twenty years. Reports have been prepared by the Massachusetts Taxpayers Foundation, the League of Women Voters, the Legislative Research Council, and the Committee on Counties. One might expect that with a study appearing every three years, concrete steps already would have been taken to address the financial and political problems plaguing the counties. These reports often describe the counties as a stagnant level of government becoming increasingly irrelevant. They call for a concerted effort to address the problems in county government. Nevertheless, almost no steps have been taken to correct these problems.

The problems of counties are manifold: they are frequently little more than havens for political patronage. Costs exceed revenues. Facilities are outdated or in need of repair. Fragmented political power stands in the way of efficient and effective delivery of important services.

The legislature has the authority to reorganize or to eliminate county government. Instead it has recommended half-measures, commissioned more studies, and made decisions piecemeal. The systemwide crisis in county government will not disappear by itself. While the legislature has the ability to address the crisis, it has allowed politics to stand in the way. As long as the legislature refuses to address the crisis in the counties, they are sure to grow obsolete.

THE FINANCIAL REALITIES

County and state officials agree that the counties are in the midst of a fiscal crisis. Currently, five counties face budget deficits in FY 91. Moreover, most have outstanding debt and five counties have a debt service that consumes a greater percentage of annual expenditures than the state's debt service.

While county and state officials agree there is a financial crisis, they disagree on who bears the responsibility. These disagreements have resulted in over six lawsuits currently pending. With government suing government, the lawyers are the winners and the taxpayers the losers. In one case twelve counties have sued the state for \$9.7 million dollars for court house rental. The counties have wasted \$30,000 for legal fees in this case alone.

According to the Department of Revenue, the counties face a grim fiscal future. Chapter 193 of the Acts of 1989 doubled the deeds excise tax in order to bail out the counties. It also created the

County Government Finance Review Board which must approve the budget of every county for fiscal years 1990 through 1992. In April of 1990, the Division of Local Services of the Department of Revenue submitted, in conjunction with the County Government Finance Review Board, a Status Report on the Implementation of Chapter 193. The report paints a bleak picture of county finance: "Prior to the adoption of Chapter 193, county government experienced chronic budgetary problems. These problems resulted from, among other things, the failure of certain counties to exercise discipline in the annual budgetary process, as reflected in the need of six counties to borrow \$11.1 million to balance their FY89 budgets; the limits on annual increases in county assessments of member towns posed by the provisions of Proposition 2 1/2; and, a lack of incentive for counties to allocate adequate resources for jail expansion."¹ The report concludes that the County Government Finance Review Board "imposed an element of discipline to the county budget process that has heretofore been lacking."²

However, the report goes on to predict that revenues in FY 91 and 92 "will not be sufficient to meet the costs of current levels of service plus costs associated with new [corrections] facilities coming on line."³ The report projects a shortfall in FY 91 of \$27.1 million in corrections budgets and \$11.1 million in other county operations.

Although the state provides the largest overall source of revenue for the counties (51.4% in FY 90), the cities and towns also contribute a considerable amount. This year, for example, the city of Worcester was forced to pay a county assessment of over \$2 million dollars of its local aid to keep an antiquated, patronage-ridden level of government alive. Meanwhile, the city is struggling to find the funds to staff schools and provide police and fire protection to the city's residents. When the Commonwealth's municipalities are facing severe cuts in local aid, the millions of dollars from cities and towns consumed by county government could be better spent.

The counties are strapped for cash and will continue to be strapped for cash in the near future. This raises some questions that the state legislature has not fully faced:

1. Why are so many of the counties unable to meet their FY 91 obligations?
2. How will the counties meet their financial obligations in

¹ A Status Report on the Implementation of Chapter 193 of the Acts of 1989, Department of Revenue, April 1990, page 2.

² Ibid., page 3.

³ Ibid.

FY 92 and beyond, assuming that real estate sales remain slow and that the deeds excise is not renewed?

3. What could be the savings from the abolition of county government?

4. Do the counties have assets that are better sold than retained?

5. Are there county functions that can be privatized?

6. Is there land that could be used for economic development?

For example, Worcester County owns hundreds of acres of land at the County Hospital that could be used for economic development, perhaps as an addition to the very successful Worcester BioTech Park.

We must ask the counties the same kinds of questions currently under debate concerning the functions and services of state government. It is estimated that the counties own assets worth between \$500 million and \$1 billion. However, no governmental agency appears to know the real value of county assets.

The elimination of county government in Massachusetts could save a minimum of \$17 million and as much as \$34 million depending on what counties and services are eliminated.⁴

THE POLITICAL REALITIES

"(T)o divest counties of their historical functions...."⁵ has been the trend in state government over the last thirty years. Most recently, the state took over all the court houses of Suffolk County and some of the court houses in Middlesex County. Yet, the state has failed to address the problems of the counties in a comprehensive and rational fashion. Instead it has been satisfied to throw money in their direction. An example of this is the doubling of the deeds tax.

The fiscal crisis of Massachusetts cities and towns demands action now. Further delays only mean that the most needy in the state - the poor, elderly, and children- suffer while an outdated level of government drains millions of dollars from our limited resources.

⁴See Appendices A and B. These tables show two different ways of calculating the savings from the elimination of county government. Because some county services may have to be retained, we have divided in half the lesser figure of \$34 million and projected a minimum savings of \$17 million.

⁵Is There a Future for County Governments in Massachusetts? Massachusetts Taxpayers Foundation, p.3.

The counties are governments in name only.⁶ They have no taxing authority (with the exception of Barnstable) and they were only recently granted the power to determine their own structure. Moreover those counties which in 1989 attempted to exercise the latter power through the charter process failed in all but two instances. To decide the future of county government, the voters of nine counties decided to create County Charter Study Commission in 1986. The reports of eight commissions were submitted to the General Court in 1988. In November of that year the proposed charters for six counties appeared on the ballot. The voters in Barnstable and Hampshire approved the new charters, while voters in Franklin, Hampden, Worcester, and Plymouth rejected the charters. Thus, of the fourteen counties in the Commonwealth, only two now have new charters. A great deal of time and money was spent on a process that, quite frankly, did not work.

The resources of the Commonwealth are wasted in power struggles among government officials due to the fragmented nature of political power on the county level. The efficient delivery of important governmental services such as the administration of justice is hampered because responsibility lies with two levels of government.

The movement to reform county government has a history of going nowhere. According to one wit, it would be easier to abolish the Commonwealth of Massachusetts than to abolish the counties--this political paralysis is costly. In addition the Committee on Counties said that counties are "sinking deeper and deeper into debt."⁷ The citizens of the state are less secure because criminals in some counties who should be in jail are walking the streets. In some places, buildings are deteriorating because there is no money to maintain them.

There is a crisis in county government. The state legislature has an obligation to step forward to address the crisis with more than mere words. The state has no choice but to act quickly. Tough questions need to be answered:

1. Do the counties perform functions that are better performed by the state?
2. Do the counties perform functions that are better performed by the private sector?
3. Are regional cooperative arrangements between towns and cities a more rational alternative to county government as it exists today?
4. Are there unused assets of the counties that ought to be sold or transferred to another level of government?

⁶Ibid., p. 2.

⁷Report of the Joint Committee on Counties, January 1991.

FINDINGS AND RECOMMENDATIONS OF THE LEGISLATURE'S COMMITTEE ON COUNTIES

The most recent report on counties to emerge from the Committee on Counties is a lengthy "study" of county government as it operates today. The committee paints an unmistakably bleak picture of the counties.

The most expensive operation of the counties are the jails and houses of corrections, the cost of which has risen by 192% in less than ten years. The report concludes that budgetary shortfalls have contributed to overcrowding, disturbances, inmate escapes, and early releases in most county correctional facilities. In Hampden County in 1990, inmates "were barely serving one third of their sentences."⁸

The other essential service of the counties is the registering of property transfers. The registries of deeds, like the jails, are facing budget problems. The report argues that with the expiration of Chapter 193 (the deeds excise tax) in June of 1992, the registries will be unable to perform the essential function of recording documents.

The report of the Committee on Counties recommends "radical" steps to correct the current crisis in county government:

1. The transfer of the county jails and houses of corrections to be assumed by the state by July 1, 1992.
2. The registries of deeds to be taken over by the state by July 1, 1992.
3. A referendum question on the November 1992 ballot asking the voters in each county whether county government should be preserved or abolished to take effect as of January 1, 1995.

For whatever political reasons, the report waffles on the elimination of county government. To suggest a referendum is to deceive the public into thinking that real action is being taken. The referendum process will take nearly four years to complete, whereas legislative action could be completed in a year.

The report of the Committee on Counties purports to recommend "radical" measures to address the crisis in county government, but it does not. Now is the time for bold action.

⁸Report of the Joint Committee on Counties, January 1991.

CHASE RECOMMENDATIONS

The state should enact into law a bill or series of bills to eliminate county government:

1. The legislature to eliminate county government with a local option to retain county government or form a new confederation.

The towns and cities should have the right to retain or create a regional confederation if they determine that this is in their interest.

2. The state to require any remaining counties or confederations of cities and towns to fund their operations with the county tax and own sources of revenue.

Regional services provided by the counties or confederations should be paid by those who receive those services. The local communities will thus have an incentive to exercise fiscal oversight of the operations they are paying for. The legislation should make clear that the state will assume no financial responsibility for the counties or confederations.

3. The state to take over all county court houses.

This will complete what the legislature did in 1978 when it took over the administration of the county courts. Moreover, this will force the state to assume responsibility for the maintenance and upkeep of the court houses.

4. An immediate takeover by the state of county houses of corrections and jails.

The state already pays for these facilities.

5. The state to take over the registries of deeds.

The recording of property transfers is not an inherently regional function and, therefore, the state should assume responsibility for overseeing the administration of the registries.

6. The Governor to appoint a commission to provide for the orderly disposition of property in the dissolved counties.

The state has the authority to decide what to do with county property. However, there should be a presumption in favor of the fair distribution of county assets to the towns and cities of a county.

7. In order to properly quantify our projected savings, it is requested that the Governor direct the Commissioner of the Department of Revenue or the Secretary of Administration and Finance to provide an analysis of the financial results of the transfer of essential county services to the state and the elimination of county government.

CONCLUSION

These recommendations should not be interpreted as an attempt to centralize government in Massachusetts. It is assumed that the towns and cities of the Commonwealth have the right to enter freely into mutually advantageous cooperative arrangements. The abolition of county government is as much an effort to bring under the umbrella of the state those functions that are truly state functions, as it is an effort to encourage communities to decide among themselves what regional arrangements serve them best. The abolition of county government should strengthen local government at the same time that it transfers responsibility for state functions to the state government.

APPENDIX A

Projected savings from the elimination of county government⁹

Total County Revenues and Expenditures for FY 90		223,436,486
State Portion of the Cost of County Government after Takeover:		
Court House Rental:	32,269,815	
Corrections:	97,845,441	
Registries of Deeds:	18,504,325	
Employee Benefits:	20,343,874	
Subtotal:	<u>168,963,455</u>	168,963,455
County Revenues and Expenditures - State portion		54,473,031
Non-tax County Sources of Revenue:		
Cnty Ext'n/Agric'al Sch:	4,452,875	
Cnty Health and Hospitals:	3,880,338	
County Airport:	800,000	
Other:	11,149,970	
Subtotal:	<u>20,283,183</u>	20,283,183
Maximum Possible Savings*:		<u>34,189,848</u>

* County revenues for 1990 minus expenditures for services taken over by the state, minus non-tax revenue for services the state will not assume, equals maximum possible savings.

⁹Source: A Status Report on the Implementation of Chapter 193 of the Acts of 1989, Department of Revenue, April 1990, pages 20, 26. Note: the number for employee benefits is an estimate based on a reduction of the workforce after the elimination of county government.

APPENDIX B

PROJECTED SAVINGS FROM THE ELIMINATION OF COUNTY GOVERNMENT AND STATE TAKEOVER OF COUNTY COURT HOUSES, CORRECTIONS, AND REGISTRIES OF DEEDS

<u>FY 90 Total County Expenditures</u> ¹⁰	<u>Projected Savings</u>
ADMINISTRATIVE:	
County Commissioners	3,684,465
Purchasing	326,583
Data Processing	536,129
Advisory Board/Delegates	263,287
Treasurer	2,480,773
Building Maintenance	19,428,339
Contractual Services	834,599
Curr. Charges & Obligations	2,552,969
SUBTOTAL	30,107,144
Percentage of Total:	13.5%
EMPLOYEE BENEFITS:	
Retirement System	14,486,619
Group Insurance	15,655,744
Workmen's Compensation	1,110,747
Unemployment	228,399
Medicare	305,795
SUBTOTAL:	31,787,304
Percentage of Total:	14.2%
REGISTRY OF DEEDS:	18,504,325
Percentage of Total:	8.3%
CORRECTIONS:	97,845,441
Percentage of Total:	43.8%
DEBT SERVICE:	11,531,706
Percentage of Total:	5.2%
RESERVES:	
Reserve Fund	2,122,546
Reserve - Salary Increase	1,344,659
Capital Stabilizat'n Fund	2,037,256
Unpaid Bills	1,269,102
SUBTOTAL:	6,773,563
Percentage of Total:	3.0%

¹⁰Source: A Status Report on the Implementation of Chapter 193 of the Acts of 1989, Department of Revenue, April 1990, page 26.

¹¹Based on estimated 36% reduction in workforce.

SERVICES:

Planning	683,705	683,705
Health & Human Services	5,674,613	5,674,613
Public Works	2,695,803	2,695,803
Public Safety	3,497,378	3,497,378
Educ'n, Agricltre & Rec'n	11,933,821	11,933,821
Tourism & Econ. Develop't	547,150	547,150
SUBTOTAL:	25,032,470	25,032,470
Percentage of Total:	11.2%	

MISCELLANEOUS:

1,854,533

Percentage of Total: 0.8%

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TOTAL: 223,436,486 44,601,735

Non-tax County Sources of Revenue: 20,283,183

TOTAL SAVINGS: 24,318,552

APPENDIX C

THE ARGUMENTS AGAINST LEGISLATIVE ACTION

1. County government is mandated by the Constitution of the Commonwealth of Massachusetts and cannot be abolished except through adoption of a constitutional amendment.

Answer: The counties are mentioned in the Constitution.¹² However, the county form of government is a creation of the legislature.¹³ It does not appear, therefore, that a constitutional amendment is necessary to abolish county government. But, the Constitution may require the election of the sheriff and the register of deeds. A constitutional amendment might be necessary in the future if the legislature wishes to provide for appointment rather than election to these offices.

2. Some counties operate efficient and effective facilities, and abolishing county government would force the closing down of those facilities.

Answer: Those operations of the counties that are efficient and effective need not close down because the county government has closed down. There are a variety of alternatives to this, from transferring the facility to the state to selling it on the condition that the owner continue to provide the same service to the area communities.

¹²For example, see Chapter I, Section II, Article I.

¹³General Laws of Massachusetts, Chapters 34-38.



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY-ONE

DRAFT FOR SUBMISSION
TO THE SENATE COUNSEL

AN ACT

ABOLISHING COUNTY GOVERNMENT, TRANSFERRING TO STATE GOVERNMENT THE RESPONSIBILITY FOR FUNCTIONS MORE APPROPRIATELY CARRIED OUT BY STATE AGENCIES, AND AUTHORIZING THE LOCAL ESTABLISHMENT OF SELF-SUPPORTING REGIONAL CONFEDERATIONS WHERE JOINT EFFORTS CAN PROVIDE MORE COST EFFECTIVE PROVISION OF LOCAL SERVICES

*Be it enacted by the Senate and House of Representatives in General Court assembled,
and by the authority of the same, as follows:*

~~SECTION~~

SECTION 1. It is hereby found and declared that the existing system of county government does not provide an efficient or cost-effective means of furnishing the important governmental services, including those involved in the administration of justice, that are currently the responsibility of county government, and that several functions currently addressed by county government are more properly the responsibility of state government. It is further found that the continuing existence of county government, without substantial reform, will drain millions of dollars of future state and local funding resources with no improvement in service. It is further found that the continuation of county government in its current form is

therefore contrary to the public interest and welfare, and to the economic well-being of the commonwealth. And it is further found that the immediate abolition of county government, the transfer of county functions to the state, the disposal of county property, and the establishment of new regional cooperatives where local governments determine that services can be more efficiently provided on a regional basis, will improve the provision of state and local services, prevent the waste of limited tax sources, eliminate patronage abuse, reduce debt, and contribute to efficiency and cost effectiveness at each level of government.

SECTION 2. Notwithstanding the provision of any general or special law to the contrary, and except as otherwise provided herein, the system of county government within the commonwealth shall be abolished twelve months following the effective date of this act.

SECTION 3. Pursuant to section 2 of this act, the Secretary of Administration and Finance, in consultation with the Inspector General, is hereby authorized and directed to develop a plan for the orderly transfer of county functions to the state and local governments. The functions transferred to the state shall include but not be limited to the state take-over of all county courthouses, the state takeover of the registry of deeds, and the immediate state-takeover of the functions of county jails and houses of correction. Said plan shall be prepared forthwith

and fully implemented within twelve months of the effective date of this act.

The department of Revenue shall assist the Commissioner in providing an accurate accounting of county assets, and in estimating the savings to be realized from the transfer of county functions. Each agency of government is hereby directed to cooperate fully and immediately in the establishment and implementation of the Secretary's plan for the abolition of county government.

SECTION 4. Notwithstanding any provision of this act to the contrary, if within twelve months following the effective date of this act, a majority of the constituent cities and towns of a particular county, acting by majority vote of their legislative bodies, vote to retain their particular county government, or to establish regional confederations to assume specific regional functions, and further make provision to guarantee that said county, regional or other cooperative arrangement will be fully self-supporting, that particular county government or regional cooperative shall be retained, or established. In any county where such county government is retained, or such regional cooperative established, the constituent cities and towns may at any time thereafter vote to abolish said county government or regional cooperative effective six months following the vote. Upon such vote to abolish a retained county or regional cooperative, a plan for the abolition shall be established and implemented in accordance with the

provisions of section 2 of this act.

SECTION 5. There is hereby established a special commission to make recommendations to the governor relative to the disposal of the assets and property of the counties dissolved by section 2 of this act. Said Commission shall consist of eleven members, including the Secretary of Administration and Finance or his designee, one member appointed by the President of the Senate, one member appointed by the Minority Leader in the Senate, one member designated by the Speaker of the House of Representatives, one member designated by the Minority Leader of the House of Representatives, and six members designated by the Governor. The Governor shall name the chairman of the commission. Said commission shall prepare and submit to the Governor within twelve months of the effective date of this act, a specific plan for the disposition of all assets and property of the counties dissolved by this act. In making its recommendations for disposal of county assets and property said commission shall seek to achieve a fair distribution of the assets of the individual counties, in the manner most beneficial to the cities and towns which had constituted the membership of the county.

SECTION 6. This act shall take effect upon its passage.

