CHAPTER 6

Local Governments in Texas
Federalism Revisited

• U.S. federalism assigns different functions to different levels of government
• Local government is one such level
• Nationwide, there are approximately 89,000 local government units
• Texas has a little over 5,000
### TABLE 6.1 Number of Local Governments in the United States and Texas, 2012

<table>
<thead>
<tr>
<th>Governmental Units</th>
<th>United States</th>
<th>Texas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Counties</td>
<td>3,031</td>
<td>254</td>
</tr>
<tr>
<td>Cities</td>
<td>19,522</td>
<td>1,214</td>
</tr>
<tr>
<td>Townships</td>
<td>16,364</td>
<td>n/a</td>
</tr>
<tr>
<td>School districts</td>
<td>12,884</td>
<td>1,079</td>
</tr>
<tr>
<td>Special districts</td>
<td>37,203</td>
<td>2,600</td>
</tr>
<tr>
<td>Totals</td>
<td>89,004</td>
<td>5,147</td>
</tr>
</tbody>
</table>

Creatures of the State

• In the federal system, states may form local governments to aid in performing their police powers—enacting and enforcing statutes

• Municipalities and other local governments are legal creatures of the state, meaning they are constrained by and lack existence independent of state action

• The states have substantial discretion in the types of authority they grant their local governments
Creatures of the State:
Local Governments Categorized

• General-purpose governments have broad discretionary authority
  – They control their own spending, revenue, and personnel, and manage their own governmental structures
  – Municipalities are the most visible example

• Limited-purpose governments have narrow authority
  – They have little leeway over revenue, spending, and personnel; and their structures are set by the state
  – Examples include school districts and counties
General Law Cities and Home Rule

• Cities in Texas are chartered as either a general law city, defined in state statutes, or a home rule city
  – A city’s charter is its constitution
  – About 75% of Texas cities are under general law

• Home rule allows greater latitude in governing local affairs
  – Texas cities with populations of at least 5,000 may be chartered as home rule cities
  – Home rule cities may pass ordinances not prohibited by state law; and may amend their charters with the approval of the city’s voters
Incorporation: The Process of Creating a City

• Legally, cities are municipal corporations, so the process of establishing a city is **incorporation**
  – Local citizens petition the state; a majority vote to approve establishment of a city with explicit boundaries; and the state issues a municipal corporate charter

• In Texas:
  – At least 201 citizens must live within a 2-square-mile area
  – 10% of registered voters and 50% of property owners must petitions for an election
  – If incorporation is approved, the city is granted a general law charter; and a second election determines city officials
Incorporation:
Extra-Territorial Jurisdiction

• All Texas cities have extra-territorial jurisdiction (ETJ) that extends beyond the city’s limits
  – General law cities have only one-half mile of ETJ, but the distance increases as populations increase, to as much as five miles
• ETJ provides a city some measure of regulatory control over the growth of surrounding areas
  – A city cannot be incorporated within the ETJ of an existing city unless the existing city approves
Annexation

- Texas cities have broad annexation powers; they may expand by annexing land within their EJT
  - The city council can unilaterally annex land
- Cities annex land for several reasons
  - To avoid being surrounded by other incorporated cities
  - To protect and enhance their tax base
  - To become more important politically
- The rapid growth of Texas cities has created counter pressure from people enjoying the benefits of nearby cities without paying for those benefits
Types of City Government

• In the United States, 33% of the cities use a mayor-council form of government, and 59% use a council-manager form
  – The mayor-council system has two variations: the strong mayor system and the weak mayor system

• A third form of local government is the commission form, used by only a few cities nationwide
  – It is not used in Texas
Council-Manager Government

• In the council-manager form of government, voters elect a mayor and city council, and the mayor and city council appoint a professional administrator to manage the city
  – This is the most popular form of city government in Texas today
  – The mayor and city council establish the mission, policy, and direction of city government
  – All administrative authority rests with the city manager
FIGURE 6.1 Council-Manager Form of City Government

Under this system, the voters elect a small city council (usually seven members), including a mayor, with an attorney, city clerk, and auditor. The council hires a city manager, who has administrative control over city government. The city manager appoints and removes the major heads of departments of government and is responsible for budget preparation and execution.
Council-Manager Government: Roles

• The mayor is the presiding officer of the council and most often has a vote on all issues
  – The mayor is the head of state, a symbolic leader; laws are passed by a majority vote of the council

• The **city manager** is appointed by the council and serves as chief administrative officer
  – He or she can be removed at any time
  – Most are highly-educated, experienced professionals who can instill a high level of professionalism in city staff
  – Managers provide information and advice to the council on the impact of policy changes
Council-Manager Government: Weaknesses

• Council members are part-time and usually serve only briefly
• The city manager is not directly answerable to voters and can appear to lack influence
• Because of political coalitions on a council, a city manager may be able to ignore parts of the community in terms of providing city services
• A powerful city manager can skew and hide information in order to control policy decisions
Mayor-Council Government

• In the **weak mayor form of government**, the mayor’s formal powers are limited
  – The mayor shares power with other elected officials and the city council; has only limited control over the budget; serves a limited number of terms; and has little or no veto

• In the **strong mayor form of government**, the mayor appoints and removes department heads
  – He or she also controls the budget; is not term-limited; and can veto actions of the council

• Many home rule cities in Texas blend strong and weak mayoral powers
FIGURE 6.3 Weak Mayor-Council Form of City Government

The mayor shares power with other elected officials—attorney, treasurer, auditor, and city clerk—and with the city council. The mayor and city council oversee the department heads.
FIGURE 6.4 Strong Mayor-Council Form of City Government

The voters elect a mayor and city council. The mayor, with a chief of staff, oversees the various departments and can appoint and remove the major heads of departments.
<table>
<thead>
<tr>
<th><strong>Council-Manager Form</strong></th>
<th><strong>Weak-Mayor Form</strong></th>
<th><strong>Strong-Mayor Form</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>A city manager hired by city council is responsible for administration.</td>
<td>Power of the mayor is limited and divided among city council and other elected officials. Mayor has limited control over budget. Mayor has term limits. Mayor has no veto authority.</td>
<td>Mayor can appoint and remove major department heads. Mayor controls budget. Mayor is not restricted by term limits. Mayor has veto power.</td>
</tr>
<tr>
<td>City manager appoints and removes department heads.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City manager is responsible for budget preparation and execution.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
FOCUS ON
Hispanic Representation in Local Government

• There are two broad types of political representation:
  – In *descriptive* representation, a population’s demographics are mirrored in its government officials
  – In *substantive* representation, constituents’ interests are reflected in political and policy decisions of representatives
  – *Descriptive* should lead to *substantive*

• One problem in Texas is that few Hispanics and other minorities attain positions of municipal authority; but representation is improving
  – *Example:* Julian Castro, mayor of San Antonio from 2009 to 2014
Commission Form of Government

- In the commission form, voters elect department heads who also serve as members of the city council
  - No home rule city in Texas uses this form today
  - The city of Galveston was able to quickly rebuild after a hurricane by adopting the commission form in the early twentieth century; other major cities followed their lead
  - Each of typically five commissioners were elected citywide as the head of a city department, combining both legislative and executive functions
  - Due to several fundamental weaknesses of the form, few commission governments remained by the end of World War II
FIGURE 6.5 Commission Form of Government

Voters elect department heads who also serve as members of the city council. Voters also elect an auditor.
Commission Form of Government: Weaknesses and Impact

• The commission form created many problems
  – Citizens did not always elect competent administrators
  – The combination of legislative and executive functions eliminated the separation of powers and its checks and balances; and logrolling set in
  – Initially there was no single, strong leader in the position of mayor, which proved to be a major shortcoming

• The form did serve as a transition between the old weak mayor form and the council-manager form
  – Many Texas cities retained the term *commission* for the city council
Municipal Elections: At-Large Election Systems

• At-large election systems and single-member district systems are the two most common election types
  – Many cities led by early commissions chose to move away from the single-member district system and instead elected council members at large, by all voters in the city

• There are several variations of the at-large election system; at-large by place is most common in Texas

• Some cities, such as Houston, use a combination of at-large and single-member district systems
Municipal Elections:
Single-Member District Election Systems

• In **single-member district** elections, each city council seat is assigned to a specific district
  – City districts have approximately equal populations; the voters in each elect a council member, who usually must reside within the district

• All district elections in Texas are SMD systems
  – Most major cities were forced by the Voting Rights Act to change to SMD for at least some city council seats
  – With SMD systems, the number of minority candidates elected has increased; and council members have shown greater concern for neighborhood issues and administrative affairs
Municipal Elections: Cumulative and Preferential Voting Systems

• In a cumulative voting system, each voter has votes equal to the number of seats open
  – Voters can concentrate all their votes on one candidate
  – Several cities and school districts have adopted this system, which is preferred by voting rights activists

• In a preferential voting system, or instant-runoff system, voters rank candidates for city council
  – The most-preferred candidates are elected
  – No city in Texas uses this form today

• These alternative systems result in more minority candidates being elected
Nonpartisan Elections

- All municipal elections in Texas are technically nonpartisan elections, in that candidates are on the ballot without any party designation.
- However, the use of a nonpartisan ballot does not eliminate partisanship from local politics.
  - For decades, “nonpartisan organizations” ran slates of candidates and dominated city politics.
  - Partisanship has been a factor in recent city elections, especially in mayoral races.
  - *Example:* the influence of the Tea Party.
Voter Turnout in Local Elections

• In Texas municipal elections, voter turnout tends to be low for several reasons
  – Some cities conduct local elections in off years
  – Many cities hold their elections in May rather than November
  – Often candidates’ races are uncontested
  – What media coverage exists tends to concentrate on mayors’ races, and suburban elections are ignored

• The lack of interest is disturbing because city government has great authority over numerous aspects of our daily lives
County Governments

• Texas has the largest number (254) of county governments in the United States
  – Originally intended as an “arm” of state government, county governments also provide local services; but in Texas, the services provided are typically very limited—primarily road construction and police protection
  – In some states urban counties are major providers of urban services, such as fire protection; but in Texas, this is usually handled by city governments

• In Texas, 59% of the population lives in the 10 largest urban counties
### TABLE 6.3 The 10 Largest Counties in Texas, 2015

<table>
<thead>
<tr>
<th>County and (Major City)</th>
<th>2015 Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harris (Houston)</td>
<td>4,538,028</td>
</tr>
<tr>
<td>Dallas (Dallas)</td>
<td>2,553,385</td>
</tr>
<tr>
<td>Tarrant (Fort Worth)</td>
<td>1,982,498</td>
</tr>
<tr>
<td>Bexar (San Antonio)</td>
<td>1,897,753</td>
</tr>
<tr>
<td>Travis (Austin)</td>
<td>1,176,558</td>
</tr>
<tr>
<td>Collin (Plano)</td>
<td>914,127</td>
</tr>
<tr>
<td>Hidalgo (McAllen)</td>
<td>842,304</td>
</tr>
<tr>
<td>El Paso (El Paso)</td>
<td>835,593</td>
</tr>
<tr>
<td>Denton (Denton)</td>
<td>780,612</td>
</tr>
<tr>
<td>Fort Bend (Sugar Land)</td>
<td>716,087</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>16,236,945</strong></td>
</tr>
<tr>
<td><strong>Percentage of total population of Texas in the 10 largest counties</strong></td>
<td><strong>59%</strong></td>
</tr>
</tbody>
</table>

*Source: U.S. Census Bureau, Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2015 (by County).*
The Structure of County Government

• Regardless of the county’s size, all Texas county governments have the same basic structure
• Most accurately is it is described as weak or plural executive
  – According to the constitution of 1876, voters elect the heads of major departments of county government
  – The writers of the constitution distrusted appointive authority and trusted the electorate to choose administrators
FIGURE 6.7 Structure of County Government in Texas

County government can most accurately be described as weak or plural executive. Voters elect the heads of major departments.
The Structure of County Government

- The governing body of county government is the **county commissioner’s court**, composed of the constitutional county judge and four commissioners
  - The county judge presides as the chair
  - Each of the four districts should comprise roughly the same number of residents

- There are seven constitutionally prescribed county officers elected by the voters, such as the sheriff, who act as heads of departments of government
  - Some counties have other minor elected officials
The Structure of County Government: Elected County Officers

- The **county sheriff** is elected for a four-year term and serves as the county’s law enforcement officer
  - The voters also elect constables who serve as law enforcement officers
- The county and district attorneys are the chief prosecuting attorneys for criminal cases
  - The county attorney works at the county court level, the district attorney at the district court level
  - Not all counties have county attorneys
- The tax assessor/collector collects revenue for the state and county
The county clerk is the chief record keeper and may be responsible for conducting elections.

The district clerk maintains court records, schedules cases, administers payments, and maintains accounts.

The county treasurer receives, maintains, disburses, and keeps records of all county funds and may be the chief investment officer.

The county auditor—not elected but appointed by the district judge or judges—oversees the collection and disbursement of county funds.
Weaknesses of County Government in Texas

- Inherent weaknesses of the plural executive form of government include the lack of centralized authority
  - Elected officials make many independent decisions and hire their own staffs
  - Additionally, voters do not always select the most competent person to administer departments
  - With four separate road crews (one for each precinct), duplication and inefficiencies are common
West Texas volunteer firefighters clean a fire unit at their headquarters on Friday, April 19, 2013. Only two days prior, the West Fire Dept. responded to a fertilizer company explosion that caused several fatalities and extensive damage to the community.
Weaknesses of County Government in Texas

- Weaknesses are also seen in the inability of county governments to confront problems in urban areas:
  - Dense urban populations on the fringe of cities need services that are not necessary in rural areas.
  - County governments are usually unable under state law to provide basic services common to city governments.

- County governments must seek legislative approval to pass specific ordinances.

- Because most counties rely on the property tax, city residents often pay twice—both county taxes and city taxes—for the same services.
Possible Reform of County Government

• Whereas other states have modernized county governments, Texas has refused efforts for change
  – *Example*: the suggestion to allow for county home rule has been strongly opposed by the many county elected officials who see this as a threat to their jobs
  – County officials often have very provincial attitudes about the role of county government and seem content with the status quo
Special District Governments

• **Special purpose districts** are governments created to perform a specific set of duties or functions
  – Some are single-purpose (fire) and others multipurpose (water, sewer, street repair); some cover several counties and others are very small

• Texas has about 2,600 special purpose districts
  – The primary reason is to provide services where no other governmental unit exists to provide them
  – It is difficult for citizens to keep track of the many special districts that provide their services
  – Many have taxation authority and can raise property taxes
School Districts

• Public education in Texas is largely administered by 1,079 school districts
  – All but one of these are independent school districts (ISDs), which operate independently of any city or county

• A school district is governed by a board of trustees, elected in nonpartisan elections
  – The superintendent is the chief executive officer, a role similar to the role of the city manager in the council-manager system of local government

• Many school districts are politicized, increasing the pressure on the superintendent