

R E P O R T

FROM: Special Committee appointed by Charleston County
Legislative Delegation

TO: Charleston County Legislative Delegation

SUBJECT: Report on assignment to draft proposed Constitutional
Amendment, and outline of Charter, for reorganized
Charleston Government, in accordance with re-
commendations of the Public Administration Service

Your Committee reports herewith by submitting:

1. A proposed Constitutional Amendment;
2. An outline of a Charter for a Government in
Charleston County.

While the Constitutional Amendment is fairly short, it is the result of a good deal of detailed study, and we think that it is largely sufficient for the task. No doubt in the course of the microscopic examination to which it should be subjected, some improvements will be found possible.

With respect to the Charter outline, we have observed the directive under which we are operating to make it skeleton in form. As noted in its heading, the enclosure is intended to raise questions, not to answer them.

The present outline in its organization draws heavily on the Charter of the Metropolitan Government of Nashville and Davidson County, Tennessee. Since this outline was prepared, we have had the advantage of seeing the Charter recently adopted in Jacksonville, Florida. We have drawn a few ideas from that Charter.

We think that if further work is to be done on a Charter, Jacksonville might well be used as the prototype, instead of Nashville.

Your Committee wishes to express its thanks to Professor Robert H. Stoudemire, of the University of South Carolina, who acted as special consultant to the Committee, and to whom credit is due for much of the work that went into this effort.

Respectfully submitted,

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PROPOSED CONSTITUTIONAL AMENDMENT
FOR CHARLESTON

The electors of Charleston County are granted powers to adopt, revise, and¹ amend from time to time a home rule charter. The charter may provide for the consolidation of any and all units of government located in Charleston County and may provide for the consolidation of any and all of the governmental and corporate functions now or hereafter vested in Charleston County, municipal corporations, special districts, townships, school districts, and any other political entities located within the² County. The government created by the charter shall have all the powers and rights possessed by the various political entities prior to the approval of the charter, shall acquire any additional powers granted to such units of government by the State, and shall be recognized by the State as a legal political entity.

Before becoming effective, the charter shall be approved by the electors³ in Charleston County. The General Assembly shall provide for the election by law.

The home rule charter consolidating and regulating governments in Charleston County shall be prepared by a charter commission created in⁴ a manner designated by law. The law creating the charter commission shall provide for financial support needed by the charter commission.

The charter shall provide for the election of a governing body⁵ from specially defined districts,⁶ or from the area at large, or a combination of both. The charter shall provide for the organization of government, the enactment of ordinances protecting the health, safety, morals, and general welfare of the area governed by the charter,⁷ and the selection of officials except the sheriff, the clerk of court, the coroner, and the probate judge⁸ whose selection shall be governed by Article V of this Constitution.

The charter may provide for districts within the county for the imposition of taxes, licenses, service charges,⁹ fees, and other revenues, for the incurring of bonded indebtedness,¹⁰ and the providing of services. The restrictions in Article X, Section 6, of this Constitution shall not apply to the government created under the charter.

The Charter shall provide for the protection of the creditors and contractual obligations of any governmental unit which may be merged or consolidated by the charter.

The governmental unit created by the charter may issue general obligation bonds upon approval of 3/5 of the governing body or upon the approval of the qualified electors¹¹ and incur other forms of indebtedness now or hereafter authorized by the General Assembly for the governments existing prior to consolidation or for the government created under the charter.¹²

The charter shall provide for a system of inferior courts which may hear cases arising from the ordinances enacted by the government established under the charter and exercise all powers now or hereafter granted to magistrates, municipal, or inferior courts by the Constitution and laws of the State.

Except as provided in this section, the charter shall not conflict with the Constitution of South Carolina or general statewide laws. All local, special, or general laws applicable only to Charleston County or any political entity therein may be modified or nullified by the governing body created under the charter.

FOOTNOTES

1. The wording can just as well be made general and apply to all counties over 200,000 population.
2. The statement is general so that without amending the Constitution different plans could be prepared in the event one is defeated. It may be more feasible, however, to be more specific and simply provide for the consolidation of designated units with Charleston County.
3. Details of the election such as time, managers, ballots, etc. will have to be provided by law.
4. Naming the commission in the amendment would be extremely awkward and would allow no flexibility. Letting the General Assembly set up the commission permits a great deal of choice.
5. The exact nature and size of the governing body should be left to the charter commission which could recognize the political factors within the County. The exact nature of the governing body could, however, be listed in this provision.
6. Districts could also be specifically spelled out in the amendment, but again the Commission is likely to need some discretionary powers.
7. This statement is included to overcome the ruling in Gaud v. Walker which required a statewide law if ordinances regulating crimes are to be enforced outside of incorporated municipalities.
8. This requires the sheriff, clerk of court, probate judge, and the coroner to continue being elected as is now the practice. After study, it may be that no exception should be made for these officers. A statement on selection of officers seems essential since some are appointed by the Governor on recommendation of the delegation or senators, some are nominated in the primary, some are selected by cities, some by the county council, etc. Simply stating that the governing body under the charter may assume the role of local governing bodies would not suffice.
9. The statement in the constitution requiring taxes to be uniform in the district imposing them may interfere without this statement. There are now many different types of tax districts set up by law which appear to meet the test of uniformity, but the need to vary tax rates and charges is too great to risk.
10. This section may not be needed. The new government would be relying greatly on powers possessed by counties and a constitutional restriction on counties using tax revenue for general municipal type services, if enforced, would be very damaging.

11. Constitutional regulation pertaining to debt of the entities concerned vary greatly, some must have a vote while others do not. This statement is intended to set aside the regulations in the present constitution. Whether the statement listed is the best one is open to discussion, but some such statement is essential.
12. This statement is intended to remove any doubt concerning the issuance of revenue bonds, tax anticipation notes, and other methods of short-range financing.

CHARTER OUTLINE FOR A GOVERNMENT IN CHARLESTON COUNTY

(This Outline is intended to raise questions, not to answer them.)

Consolidation of Governments

Statement showing that all governmental jurisdictions in Charleston County are hereby consolidated into a single government called The City of Charleston.

Citation on authority for consolidation (Constitutional Amendment, perhaps an act of the General Assembly).

Description of the consolidated government as a public corporation - perpetual, to sue and be sued, own property, etc.

Statement on the assumption of powers now possessed by counties, municipalities, public service districts.

Right to assume additional powers granted to the consolidated government.

Creation of Districts within the consolidated government, description of the boundaries, specifying the jurisdictions in each where necessary.

1. The Over-all General Service District. Embracing the present area of Charleston County. Performing functions now assigned to Charleston County and adding any others deemed essential to all citizens of the County.

2. The Urban Service District. Performing municipal-type functions, having higher tax rates and service charges to pay for these services.

Urban District would include all areas which are essentially urban in nature or will be in the immediate future. The following are suggested: Charleston City, North Charleston Public Service District, St. Andrew's Public Service District, James Island Public Service District, Ashley Fire District, the town of Mount Pleasant and the nearby suburban areas, Folly Island, Sullivan's Island, the Isle of Palms.

Subdistricts may temporarily be created within the Urban District until such time as services are available at the same level throughout the Urban District. Tax and charges based on service in each.

3. Small municipalities located outside the Urban District may be allowed to function for certain purposes, but functions and ordinances cannot conflict with over-all powers.

4. Temporary tax or service districts for areas which may develop outside an existing government, but which may desire certain special services, such as garbage collection. Would be in anticipation of full admission to Urban District.
5. Restriction on boundary expansion of any unit of government not within urban service district.
6. Full listing of functions and services provided in the Over-all District. Included would be: Welfare, Health, Courts, Police Protection, Roads and Streets, Election Administration, etc.
7. Full listing of functions and services provided in the Urban Service District. Included would be: Water, Sewers, Street Lights, Fire Protection, Special Police Protection, Garbage Collection, etc.

Powers of the Government Created by the Charter

Powers which could be exercised by the new governing body would be listed.

The list would be extensive and would include the following:

Powers now possessed by municipal councils.

Powers now possessed by the county.

Powers now possessed by public service districts.

Powers now possessed by other units of government, if different.

Powers granted by the constitutional amendment.

Included would be the authority to enact ordinances for public health, safety, morals, and general welfare for the entire county, essentially in the manner now done by municipal councils.

Specific illustrations of the powers of government are: to collect taxes, to issue bonds, to maintain streets and roads, to provide for hospitals, to operate parks.

Governmental Organization

Establishment of a Governing Body for the New Consolidated Government.

The Governing Board:

Number of Members, Term of Office.

Membership must be large enough to give representation to all areas.

Establishment of election districts for the election of board members:

Considerations from this would be: Population, existing governments, single member districts versus multiple member districts or a combination, election of members at large -- all members, some.

Exact plan for election can only be developed after considerable thought and discussion.

Some members of board at least should be elected at large.

Election procedures to be used in selecting board members -- political party base, nonpartisan, etc.

Procedures governing the board -- meetings, quorums, passage of ordinances, etc.

Legislative powers of the council.

The Chief Administrative Officer or Executive:

The Mayor -- elected at large by all citizens.

Qualifications for the Mayor, Term of Office, re-election, etc.

Powers and Duties of the Mayor:

Customary ones associated with office;

Right to appoint most department heads and commissions;

Confirmation required by the elected board.

Other appointments restricted by civil service rules.

Veto power of the Mayor.

Selection of Administrative Officer to assist the Mayor.

The Mayor pro tem.

Financial Policies and Organization

Establishment of tax sources, allocation of funds among district, allocation of state aid now available to government units (which to urban service district, which to General Service District).

Determination of type of service charges, where applicable, etc. May be done under sections on functions, such as charge for building inspection, water rates.

Provisions on the preparation of the budget, adoption of appropriation ordinance.

Provision for the safety of funds, reserves created, deficits, etc.

Auditing of funds in the name of the governing board and selection of the auditor.

Finance administration: Director of Finance, Budget Officer, Treasurer, Purchasing Officer, etc.

Provision for Bonded Indebtedness and Short-range Borrowing

Application of appropriate state laws to the new government.

Application of constitutional provisions contained in the new amendment setting up the government.

Any special conditions or regulations which may be wise.

Administrative Organization

Providing for the many departments of government, both for the General Service District and the Urban District, in the event any special ones are needed for the urban district.

Determining how each department will be supervised: single department head appointed or some other method.

Determining which departments will require boards in addition to department heads and how the boards will be selected.

Assigning functions to the various departments.

Departments would include: police, fire, public works and/or water, water and sewers, recreation, health, welfare, inspections, finance, libraries, hospitals, planning, others.

Providing for the necessary boards: health, welfare, assessment, planning, zoning, licensing, library, others.

Determining the management of welfare type institutions, the orphanage for example.

Retaining the Housing Authority and redescribing its territory if necessary.

The Charleston County Schools

Relationship of new government to the school system.

Selection of a board of trustees for the schools.

Determining powers of the board of trustees and especially defining its financial authority in relationship to over-all governing body.

(A major decision will be necessary on schools -- independent status versus coming under the over-all government.)

Creation of System of Local Courts

Local court system to assume responsibilities of magistrates and recorders court.

Division of the court into sections: criminal, traffic, etc.

Statement on County Court and Juvenile Court, if to be retained as presently constituted.

Selection of judges. Appointed by mayor perhaps from list of nominations by a specially named nominating commission, other methods. (General Circuit Court would not be involved in any way.)

Provision for a Civil Service Commission

Selection of a commission if such is desired, or establishment of personnel officer.

Determination of selection procedures.

Determination which positions come under the civil service system.

Protecting status of current employees.

Retirement Rights of Current and Future Employees

Section on Constitutional Departments and Officers

Statement to clarify the constitutional position of these positions, unless it is decided to change these in the constitutional amendment.

Consolidation of Assets and Liabilities of all Governments Concerned

Buildings, equipment, bonded indebtedness, Charleston water department, others.

Assets and liabilities equally shared versus present indebtedness assumed by units responsible at time of consolidation.

Clarification of obligations of any existing unit of government which may remain out of the urban district.

Application of State Laws to New Government

Laws of former units before consolidation to apply.

If laws conflict, which laws apply. This would require a very careful study of such matters as tort liability, delinquent tax procedures, permits, etc.

Application of county political party set-up to government.

Reassignment of Existing Officials and Employees

All department heads and key officials could be used in new organizational pattern without serious reduction in duties and status.

Provision for continued employment of all present employees.

Expanding the Urban District

Procedure to be followed.

Guarantee of services if taxes are collected.

Amending the Charter

Provision for amendments to Charter:

Governing body adopt amendments by 2/3 vote -- mayor cannot veto.

Provision for citizens to initiate by petition, decided upon at election.

Right to establish charter commission to study revisions.

Necessity for submitting some, or all, amendments to referendums.

Schedule

Effective date generally.

Special effective dates for some functions or consolidations, depending upon circumstances such as programs which are under way, expiration date of official terms, retirement of existing department heads.

Details of transfer would require very careful study.

Notes:

1. In working out the details of the charter, it may well be necessary that the General Assembly enact legislation recognizing the new form of government and clarifying sections of the law which may not be clear.
2. It should be understood from the beginning that the charter providing for the new government would in no way affect representation in the General Assembly. Such elections would continue as they are now conducted or as state laws may provide in the future.
3. As charter commission undertakes its task, other areas of government and other problems will likely have to be added.