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THE STRUCTURE OF COUNTY GOVERNMENT:



CURRENT STATUS AND NEEDS

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State of New Jersey
COUNTY AND MUNICIPAL GOVERNMENT
STUDY COMMISSION

**THE STRUCTURE OF
COUNTY GOVERNMENT:
CURRENT STATUS AND NEEDS**

July 1986

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GOVERNMENT STUDY COMMISSION**

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DAVID C. MATTEK
EXECUTIVE DIRECTOR

TO HIS EXCELLENCY GOVERNOR THOMAS H. KEAN AND HONORABLE MEMBERS OF THE SENATE AND GENERAL ASSEMBLY:

The County and Municipal Government Study Commission is pleased to submit its thirty-third report, *The Structure of County Government: Current Status and Needs*.

In 1969 the Commission prepared a comprehensive analysis of county government, *County Government: Challenge and Change*, which found major structural inadequacies. The current report finds an improved situation. Both charter and non-charter counties have made major advances in modernizing both their structure and their operations within the limits of the law. However, additional statutory changes are required. Counties have also grown in importance as regional service providers. The complexity of our society requires a governmental level which is large enough to allow sophisticated technology and management and yet sensitive to local resources and needs. County government fulfills these requirements.

The report focuses on the structure of both charter and non-charter governments and attempts to improve the power of the governing body to manage government operations. Many county government agencies are not under the direct control of the governing body. Officials and boards which are appointed by the State or the county governing body frequently establish their own policies and manage their own operations. This limits the ability of the governing body to develop consistent program policy and to manage operations. Recommendations are made for legislative changes which strengthen the ability of the governing body to develop an integrated county system. Counties would be allowed to merge their autonomous agencies into principal departments as the State did in 1947. Other recommendations attempt to sort out the overlapping responsibilities of State and local government for some county agencies. Decision-making and financing responsibilities for each program should be unified at either the State or county level. Other recommendations attempt to modernize county government statutes and management practices.

This report is based on intensive interviews with county government officials including members of Boards of Freeholders, county executives and a wide range of administrative personnel. These officials provided a great wealth of information on the problems which they face in fulfilling State requirements and responding to the needs of their citizens. They have been very supportive of the Commission's research efforts and recommendations for change.

The Commission hopes that both the Governor and Legislature will join us in strengthening county government by enactment of the legislative changes recommended in this report.

Respectfully submitted by the members of the County and Municipal Government Study Commission:

| | |
|---------------------------------|--|
| /s/ Carmen A. Orechio, Chairman | /s/ Fred G. Stickel III, Vice Chairman |
| /s/ John A. Lynch Jr. | /s/ Robert F. Casey |
| /s/ Henry P. McNamara | /s/ Benjamin R. Fitzgerald |
| /s/ Rodney P. Frelinghuysen | /s/ Catherine B. Frank |
| /s/ John A. Girgenti | /s/ Guy E. Millard |
| /s/ Garabed "Chuck" Haytaian | /s/ Peter Shapiro |
| /s/ Stephen Capestro | /s/ John E. Trafford |

ACKNOWLEDGEMENTS

This report is based on extensive interviews with a wide range of elected and appointed county officials who gave generously of their time and information. Visits were made in sixteen counties for interviews with freeholders, county executives, county administrators, county counsels and directors of finance, administration, planning and economic development, human services, aging and other county offices. These interviews focused on the structure of county government, decision-making processes, relationships among the various governmental units and functions. Members of the New Jersey Association of Counties and the New Jersey Association of County Administrators were also helpful in defining relevant issues. County officials were articulate in describing the operations of their own governments and the issues faced by counties in general. The Commission expresses its appreciation to these officials for their thoughtful contribution.

The following persons were extremely helpful in defining specific structural issues and reviewing drafts of the report: Eugene J. Schneider, Manager, Long Range Planning Unit, Office of Management and Budget, Department of Treasury; Guy E. Millard, Executive Director, New Jersey Association of Counties; Linda Spalinski, Assistant Executive Director, New Jersey Association of Counties; Frank Haines, Jr., previously Executive Director, New Jersey Taxpayers Association; Frank Haines, III, Research Associate, New Jersey State and Local Expenditure and Revenue Policy Commission; Patricia Maynard, Special Assistant for New Jersey Legislative Affairs, Port Authority of New York and New Jersey; John McHugh, Middlesex County Administrator; Dr. Ernest C. Reock, Jr., Director, Bureau of Government Research, Rutgers, the State University of New Jersey; Fred J. Rossi, Morris County Administrator; William H. Struwe, Supervising Program Specialist, Division of Local Government Services, Department of Community Affairs; and Frederick J. Zavaglia, Atlantic County Administrator.

The Commission is grateful for the assistance of these people in developing a view of county government issues and a perspective on solutions.

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EXECUTIVE SUMMARY

CHAPTER I: INTRODUCTION: THE CHANGING COUNTY SYSTEM

County government has evolved from a limited governmental unit with responsibility for roads, courts and taxes to a complex governmental entity with a significant regional role. Current responsibilities are extensive and include county colleges, consumer protection offices, nursing homes, offices on aging, transportation planning, environmental health programs and a variety of other programs. The complexity of our environment requires a level of government which can respond to unique regional conditions. County government fills this need.

The structure of county government has changed to support its increased responsibilities. The Optional Charter Law (NJSA 40:41A-1 *et seq.*) allows major increases in the centralization and management capacity of county government. Non-charter counties have also moved, within the limitations of State law, to strengthen their management capacity.¹ But State statutes still place significant restrictions on the ability of the central governing body to manage county operations. Only a limited number of county offices report directly to the governing body. A combination of State-appointed officials, independently elected officers and county-appointed boards and commissions manage other county operations. These officers and boards independently make policy, hire staff and direct their own operations with funds that are supplied through the county property tax and other fiscal resources. The State also limits county functioning through a variety of other statutory restrictions.

The major objective of this report is to increase the power of the county governing body to effectively manage government operations. The recommendations would provide counties with additional options to organize their internal affairs by eliminating organizational structures mandated in State statute. These changes would provide county government with powers which are already exercised by State and municipal governments.

CHAPTER II: THE ROLE OF THE FREEHOLDER BOARD IN NON-CHARTER COUNTIES

As discussed in the County and Municipal Government Study Commission's 1969 report, *County Government: Challenge and Change*, county government was organized historically as a series of separate units with weak central controls. This is partially due to the structural independence of State-appointed boards and personnel, elected officials, authorities and the county government appointed boards. In addition, the traditional organization of

county government included a series of separate and distinct agencies, each reporting to the Board of Freeholders with limited interrelationships between them.² In the intervening seventeen years, county government has centralized its operations through use of county administrators, strengthened central staff functions and limited reorganization. Modern management techniques and stronger internal interrelationships have allowed county government to provide a more effective response to county needs.

In traditional county government, the Board of Freeholders combine both administrative and legislative functions. Each separate administrative unit reports to a freeholder committee which is responsible for its management. In the past, the connection among separate units has been limited as was the use of centralized processes for budget information and other support services.

Issues: A Centralized System for Operations

The Commission believes that non-charter counties should take additional steps to integrate the operation of all county agencies. By loosening some of the restrictions in State statutes and increasing central management controls, county government can become a more efficient system with a greater capacity for responding to regional needs. A stronger management system will increase the capacity of the Board of Freeholders to determine policy and to manage an effective government system.

The Freeholder Board is the core of county government and enhancing its central power and visibility will expand the overall strength of the government. Statutes should be revised to reflect the central policy-making and management role of the Board of Freeholders and to strengthen their relationship with independent boards, commissions and officials.

Recommendation II-1: The Board of Freeholders statute for non-charter counties should be amended to place all executive and legislative powers of the county in the Board of Freeholders. The Board should be given the power to delegate administrative responsibility through resolution.

The stability of the Freeholder Board would be enhanced by increasing the length of the term of freeholders from three to four years with elections occurring every two years. Increasing the amount of time that freeholders serve between reelection contests and reducing the pressures on all freeholders resulting from annual elections should provide more time for the Board of Freeholders to focus its attention on policy-making and management.

Recommendation II-2: The Commission recommends that a statute be enacted authorizing non-charter counties, by referendum, to provide for four-year terms of office for freeholders with elections occurring every second year.

Biannual elections would bring counties into conformity with national and state patterns.

The potential of the Board of Freeholders for effective management of county government operations would be increased by allowing for development of a strong county administrator.

Recommendation II-3: The county administrator statute for non-charter counties should be amended to allow the Board of Freeholders to delegate a broader range of responsibilities to the county administrator. Each Board of Freeholders should develop by resolution a specific set of responsibilities for the county administrator.

The Board of Freeholders could choose the county administrator role which they find appropriate for their government. The Board might choose to act as a Board of Directors and delegate significant managerial responsibility to the administrator. This would result in increasing the centralization of government operations.

The general focus of these recommendations has been to improve the potential for the Board of Freeholders to serve the needs of county residents. Increasing the visibility and control of the Freeholder Board should enhance the potential of the Freeholder Board to plan and manage county government. The resulting administrative system will operate more like a modern private industry while maintaining accountability to the voters through the electoral process.

CHAPTER III: THE AGENCIES OF COUNTY GOVERNMENT

State statutes partially limit the ability of the governing body to effectively plan and manage county operations. In addition to offices reporting directly to the governing body, State statutes have established autonomous and quasi-autonomous units. The State-appointed officials and boards, elected officials, county-appointed policy-making boards and authorities operate outside the direct authority of the governing body. These units determine policy or implement State policy, hire staff and manage their own operations with little oversight by the central authority. The governing body is responsible for funding these agencies and providing support services but many policy decisions are made at the State level or by the independent agencies. The resultant dispersion of power and responsibility to numerous autonomous agencies limits the public recognition of the significance of county government. It also limits the Board of Freeholders' ability to transfer resources from one area of county government to another in order to respond to changing perspectives on county services.

County government is composed of agencies reporting to the governing body and autonomous units and could be defined as follows:

- 1. County-appointed statutory boards.** State statutes have established county boards, appointed by the governing body, which manage a broad range of county functions. They account for 30% of county expenditures and 30% of county personnel. The Board of Social Services, Mosquito Control Commission, Parks Commission, Shade Tree

Commission and Boards of Managers for nursing homes and psychiatric hospitals manage their own budgets after appropriation by the Freeholder Board. Other boards, such as the Mental Health Board, Planning Board and Cultural and Heritage Commission have staff which are sometimes more integrated into county government operations. Under the Optional Charter Law, counties may eliminate the independent status of these boards and provide the program through direct county operations. This option has been extensively used by charter counties.

- 2. State-appointed boards and personnel.** The State makes extensive appointments to county government offices including the entire court system, Probation Department, prosecutor, Board of Elections, Board of Taxation, superintendent of elections, superintendent of schools, Agricultural Extension Service and Soil Conservation District. In general, policy for these offices is established by a State office or in statute. The courts are part of the State judicial system with little decision-making control at the county level. The system for administering the electoral process is part of a state system; the county provides support staff and office space for the superintendent of schools who enforces State regulations and is effectively part of the State Department of Education. The offices of these State-appointed officials account for 13% of county operational expenses and 14% of county personnel.
- 3. Elected officials.** The county clerk, sheriff, surrogate, and register of deeds operate with great autonomy and are accountable to the voters through the electoral process. The clerk, surrogate and sheriff are constitutional officers. The clerk and sheriff are part of the judicial system but also have other statutory responsibilities while the responsibilities of the surrogate are entirely judicial. Five counties have chosen to utilize an elected register of deeds position with statutory responsibilities otherwise executed by the county clerk. The elected officers account for 6% of the operational county budget.
- 4. Education boards.** In line with both national and State educational policy, county colleges, vocational schools and special services school districts operate with great autonomy. Each institution has a Board of Trustees, appointed primarily by the governing body, which is responsible for policy and management. The Board of Freeholders approves the budget based on the determination of separate Boards of School Estimate consisting of three freeholders (or the county executive and two freeholders) and two trustees from the education board. The county governing body, therefore, has good control over financing which accounts for 11% of the county budget.
- 5. Independent authorities.** Authorities are relatively new entities for county government created to maintain the benefits of public financing combined with the advantages of the private sector. Counties make appointments to the authority boards which then operate with considerable autonomy. Sixteen counties have utilities authorities

which are completely independent of county financing. The eight counties which have established improvement authorities often provide a portion of that authority's budget.

6. **County agencies.** The county governing body directly manages a wide range of separate programs and support functions which account for 40% of its budget and 26% of its staff. These functions including administrative and financial services support the operations of the county units as well as the more autonomous agencies. In fact, county units write the payroll checks, maintain personnel records, maintain buildings and purchase supplies for the majority of county offices. Other direct county functions include building and maintaining roads and bridges, extensive human services programs, planning activities and consumer services. In addition, State statutes mandate that counties provide correctional programs, a medical examiner, a weights and measures office and emergency management.

Issues: Movement to Principal Departments

Historically, the services provided by the the 20 to 40 separate offices which report directly to the county governing body have not been closely integrated. The offices reported directly to freeholder committees which were responsible for their administration. This system has changed for some counties with management initiatives made by both charter and non-charter governments. All charter counties and some non-charter counties have moved to a departmental organization where similar offices report to one department head. The resultant organization usually includes between six to eight large departments such as the following: administration, finance, public works, public safety, human services, health and institutions, and planning and economic development. The Commission believes that a unified departmental structure increases the efficiency of county operations and supports this organization for all counties.

Recommendation III-1: Non-charter county governments should analyze their own structure in order to integrate their multiple existing agencies into principal departments composed of related functions. This will allow greater coordination among units and facilitate clear policy development and execution.

Under a principal department structure, policy issues and major decisions could also be presented to the Freeholder Board in a more rational manner. Individual programs would be viewed as part of a larger system with resulting increases in effectiveness and efficiency. For example, planning for mental health would be integrated with overall human services concerns. Major policy decisions would then be made within a context which includes an analysis of county needs, goals and resources.

Issues: The Autonomous Agencies

The existence of the multiple State mandated autonomous units precludes the development of a unified county government under the direction

of the governing body. State statutes have created a system in which major components of the government have policy-making authority which is independent of, and in many respects equal to that of the governing body. The existence of historical antecedents and old fashioned concepts of government have resulted in a splintered system of government operations.

In an earlier era, it was often felt that each additional government function needed a separate policy-making board distinct from the local governing body to manage the operation of that function. Membership on these boards was often limited to persons representing certain interest groups or having special expertise. It was assumed that important policy decisions could not be made by elected officials, thus protecting management decisions from political bias. According to this logic, decisions on support for the poor were made by an independent agency which was not required to fund support payments. Consistent with this tradition, county government contains many State-appointed officials and semi-autonomous boards and commissions. This approach is archaic and has limited county government from forming strong, effective and integrated systems.

Recommendation III-2: Legislation should be enacted which will allow non-charter county Freeholder Boards to make independent boards part of direct county government operations while maintaining the board in an advisory capacity. This law would authorize non-charter counties to merge autonomous agencies into county departments in the same manner as charter counties do and would cover all boards and commissions appointed by the Board of Freeholders except the Boards of Managers responsible for nursing homes, psychiatric hospitals and other hospitals. Such a statute would be permissive and would authorize the Board of Freeholders to retain or recreate autonomous agencies if it chooses.

This would increase the Freeholder Board's control over policy and management. In addition, the operations of the independent agencies such as the Board of Social Services, Park Commission, Mosquito Control Commission and Shade Tree Commission could be integrated into related county operations.

The county governing body should be given the power to make policy and management decisions when there is overlap among the responsibilities of the various offices which comprise county government. Decisions would be made based on efficiency and the needs of county residents.

Recommendation III-3: Legislation should be enacted giving the county governing body power over independent boards, State-appointed officials and constitutional officers when their responsibilities overlap with each other or with any county government unit.

Central controls would also be increased if central budgeting and administrative procedures were extended to all the separate units of county government. This provision is currently available to counties operating under the Optional Charter Act.

Recommendation III-4: Legislation should be enacted stating that non-charter county governments may require that independent boards, commissions and constitutional officers follow the same budgetary and administrative procedures as regular county departments.

The Commission believes that the status of county officials appointed by State government should be reevaluated with the objective of creating a rational system with decision-making, management and financing responsibilities lodged at the same level of government. This will allow a more organized system with responsibilities centralized under the governing body.

Recommendation III-5: The Commission recommends that each State-appointed board or officer of county government be assigned to the appropriate governmental level for those programs. Each of these officials should be appointed, supervised and financed by either the State government or the county governing body.

This includes the courts, Jury Commission, Probation Department, Board of Taxation, county tax administrator, Board of Elections, superintendent of elections, superintendent of schools, agricultural agent and the prosecutor. The resulting system would unify policy-making, management and financing responsibilities.

As a result of prior studies the Commission has recommended that the State assume responsibility for the administration and financing of the court system. Currently counties pay most of the costs of the State court system, but counties do not have control over the management and budget of that system. In order to prepare the way for transferring the judicial functions to the State a permissive change in statute should be considered which would separate the county clerk's constitutional responsibility to the State judiciary from his statutory responsibility to the county.

Recommendation III-6: The Commission reaffirms its previous recommendation that the State assume complete programmatic and financial control of the State judicial system.

The county should also prepare and publish a document which specifies the structure and operations of county government.

Recommendation III-7: Each non-charter county should review government operations and develop an administrative code which will specify the responsibilities of each unit, the relationships among the units and the responsibilities of major administrators. Legislation should be enacted which explicitly authorizes use of this option for non-charter counties.

All charter counties have adopted an administrative code. This is a positive device for educating the public and the persons working in county government as to the Board of Freeholders' intent concerning the desired roles for all the agencies of county government.

These recommendations are designed to strengthen the Board of Freeholders' policy-making and management responsibilities for the various func-

tions of county government. The recommendations are permissive in nature and will allow the Board of Freeholders to merge some autonomous agencies into departments of county government if they so choose. In other cases, the respective roles of the State and county government need to be sorted out in future years. To a large degree these recommendations provide more control to the Freeholders by reducing unneeded State restrictions. The recommendations were modelled on government changes already made by many municipal governments, the State government and a number of county governments.

The thrust of these recommendations is development of a county government where the governing body exercises more direct control over county operations. County government should have a clearly defined identity and role. The county would be able to make decisions about the programs which it funds without the extensive interference of the State. The historic assignment of powers should be reevaluated so that the State/county system is based on a rational assignment of powers, duties and funding responsibilities.

CHAPTER IV: OPTIONAL CHARTER GOVERNMENT: HISTORY AND CURRENT STATUS

As a result of the Commission's extensive analytical work in the late 1960's, the New Jersey Legislature enacted the Optional County Charter Act (NJSA 40:41A-1 *et seq.*) in 1972. This statute allows counties to adopt through referendum a new structure for their government including the two following major changes:

1. the separation of the legislative and executive branches and the creation of a chief executive officer who is either elected or appointed; and
2. the opportunity for the governing body to absorb functions reporting to county-appointed boards into direct operations while maintaining the board in an advisory capacity.

Six counties have chosen the optional charter form with Atlantic, Bergen, Essex, Hudson, and Mercer selecting the County Executive Plan and Union selecting the County Manager Plan. Four other counties have considered the optional charter form of government and have elected to maintain the non-charter form.

Impact on Operations

Change to a charter form of government has resulted in a radically different style of operations for county government. The major changes are the emergence of a strong leader and the development of a clear departmental structure including agencies which had previously been managed by autonomous boards. These changes have jointly resulted in a strong centralized form of government.

Under non-charter government, the Board of Freeholders is responsible for the operation of county government including both policy-making and

administrative responsibilities. Under the optional charter form of government, the Board of Freeholders has responsibility for legislation including approval of the budget, approval of the administrative code and oversight over executive functioning. The chief executive officer, under either the County Executive or County Manager Plan, is responsible for the administration of the county including appointment of staff, preparation of the budget and negotiation of contracts. These responsibilities are extensive and have resulted in strong leadership.

The chief executive officer has also moved towards creation of an organization with a high degree of centralization. All county offices are organized into a principal department structure with strong management oversight and central support services. Autonomous agencies such as the Board of Social Services, Parks Commission and Mosquito Control Commission have generally been made part of this structure. This tight system has increased the integration of separate units and allowed a coordinated approach to policy formation. The separate administrative offices are now part of one governmental unit.

The impact of strong executive powers and a principal departmental structure has been an increase in the unification of the government. One person is now perceived as responsible for the entire system and takes responsibility for its success or failures. This unified leadership is apparent to county residents, county government employees and State and municipal officials.

Issues: Legislative-Executive Relationship

The separation of the legislative and executive functions has led to some conflict between the two branches of county government. The Board of Freeholders no longer has the major responsibility for managing the government. The charter act allows extensive executive leadership and most executives have made strong use of that power. As previously noted, major Freeholder Board responsibilities are legislation, approval of the budget, development of the administrative code and oversight over executive functioning.

The functions of the Board of Freeholders change substantially under all the optional arrangements authorized by the Optional County Charter Law. A change in name from the Board of Chosen Freeholders to the County Legislature would properly recognize the current role and responsibilities of the Board in those counties. The name change would parallel the nomenclature at the State and national level of governments.

Recommendation IV-1: Legislation should be enacted which authorizes charter counties to change the name of the Board of Freeholders to the County Legislature by ordinance.

This new pattern is based on the separation of powers concept which is basic to the operation of both our State and national governments. This is also the controlling concept in the Optional Municipal Charter Law. The system of checks and balances is designed to create a government which is

responsive to the needs of citizens while preventing the absorption of total power by one branch of government.

The Optional Charter Act forces the Board of Freeholders to act in a different governmental organization and to develop new techniques for influencing government operations. The charter law provides certain powers to the Freeholder Board, however, specific methods for operationalizing these powers must be developed within each county.

Recommendation IV-2: The Commission recommends that Freeholder Boards under the Optional County Charter Law implement their power to budget, to exercise legislative oversight and to amend the administrative code through increased use of methods designed to support policy development.

The separation of powers means that the Freeholder Board must develop new methods of operationalizing their statutory powers. Freeholder Boards in various counties have developed techniques to implement their responsibilities. These suggestions are an extension of the systems already in place:

- 1. Use of ad hoc committees.** Statute allows Freeholders Boards the right to form subcommittees to study specific issues and report back to the Board. This method can be used to develop a policy perspective on specific issues through integrating information from county staff and members of the public including both providers and users of specific programs. This technique could be used to formulate a specific perspective as background for legislation or budget decisions. The committee structure could also allow formalized interaction between the Freeholders and the executive branch around individual policy issues.
- 2. Access to information.** As an additional support for policy formation, the Board of Freeholders may want access to specific information on issues and programs. Staff or consultants reporting directly to the Board of Freeholders would allow this support. Obviously, this support staff must work in conjunction with executive staff and supplement their efforts. The executive branch is required to provide information to the Board of Freeholders upon request.

The combination of committee meetings with the use of staff or consultants should support the Freeholder Board in implementation of their statutory responsibilities for legislation and oversight.

The Commission has recommended permissive legislation allowing a four-year term of office for freeholders with part of the Board elected every two years (Recommendation II-2). A similar recommendations is made for charter counties. The freeholder term of office in charter counties would be four years with elections at two-year intervals or concurrently (an existing option for charter counties). All or some of the freeholder elections would occur in the same year as the county executive elections.

These recommendations would make the legislative and executive branches of county government consistent by allowing four-year terms of office for each branch and would encourage cohesiveness between the branches. The Board of Freeholders would also have additional time to consider county issues without the pressures of annual elections.

Recommendation IV-3: Legislation should be introduced which allows charter counties to choose through referendum a four-year term of office for freeholders. Freeholder elections would be scheduled concurrently with the county executive or part of the Freeholder Board would be elected two years after the executive and remainder of the Board.

Issues: Extension of Charter Governments

Movement towards charter government has been significant with 41% of the State's population living in counties which have chosen the optional charter form of government. This is significant but not as strong as might have been expected given the critical analyses of county government apparent in the late 1960's. There are probably several reasons for this slow but steady movement towards charter. As previously noted, non-charter government has made significant movement towards increasing managerial efficiencies within the limits imposed by State statute. In fact, non-charter government organization has moved towards the model used by charter governments and private corporations. In addition, county government is not readily visible to the public and is, therefore, not subject to the same scrutiny and demands for accountability as is municipal governments or State government. Optional charter government also significantly changes the power relationships within a county and, therefore, the existing political structure does not usually initiate movement to change the form of government. The centralization which results under charter government forces a new pattern of relationships among the elected and appointed officials in county government. And the existing leadership may be unwilling to risk the temporary disruption and the permanent change which occurs with a change in the form of government.

Nevertheless, charter government allows counties a significant opportunity to improve county government functioning and support future growth.

Recommendation IV-4: The Commission continues its historic support of the optional charter form of government. The separation of legislative and executive powers combined with increased central management provides the best opportunity for an effective governmental system.

CHAPTER I

INTRODUCTION: THE CHANGING COUNTY SYSTEM

New Jersey county government has evolved from an organization whose major responsibilities were the administration of State programs to an organization which can effectively respond to the varied needs of its residents. The policy-making and management capacity of county government is increasing to facilitate this expanded role. The complexity of the physical and social environment requires a level of government which is broad enough to solve problems and yet close enough to the community to achieve realistic solutions. County government provides this level of involvement. Counties also provide a unique opportunity for citizens to have input into government priorities and the development of their communities.

The State of New Jersey, within its limited borders, contains tremendous diversity. The older developed areas in the northeastern part of the State face problems of redevelopment and population loss. The central corridor of the State is undergoing massive development related to the growth of high tech industries. Parts of southern and western New Jersey rely on farming and a limited industrial base. Individual counties must deal with the tremendous growth of Atlantic City and the Hudson River waterfront. The Pinelands Preservation District also poses unique problems for counties within its boundaries.

This diversity necessitates unique responses to widely varying problems. A uniform statewide solution is not practical given the variability among local situations. And yet an adequate response to such problems as alcoholism, human services planning, solid waste planning and sewerage treatment require a regional approach to provide adequate solutions. The extensive variation among counties is indicated in Table 1 which presents a series of parameters significant in establishing priorities for local programs. Counties are able to respond to these specific local conditions and needs in designing programs. For example, Somerset County faces high growth pressures with large undeveloped land areas and low unemployment and poverty. In contrast, neighboring Union County is losing population, has virtually no farmland and more problems due to unemployment. Cumberland and Sussex Counties have large amounts of undeveloped land but Sussex County is faced with a high growth rate and low unemployment while Cumberland County has high unemployment and a lower growth rate. Based on these specific conditions and other circumstances, counties establish different priorities, choose different programs and use different methods of delivering services.

County government has made significant advances in providing services and programs but must operate within an inadequate governmental struc-

TABLE 1
VARIOUS COUNTY INDICATORS
(rank in parenthesis)

| | Population (1984 est.) ¹ | Pop. Per Sq. Mile (1984 est.) ² | Total County Expenditures (1984) ¹ | County Expend. Per Capita (1984) ¹ | Growth Rate (1970-80) ³ | % Farmland (1982) ⁴ | % Assessed Valuation for Comm./Indust. (1984) ¹ | Per Capita Income (1983) ⁵ | Unemployment Rate (1985) ² | % Persons Below Poverty Level (1979) ² |
|------------|--|--|---|--|--|-----------------------------------|---|---|--|---|
| Atlantic | 200,896 (15) | 354 (15) | 60,466,673 (13) | 301 (3) | 10.9 (8) | 7.6 (15) | 35.71 (2) | 13,082 (10) | 7.9 (4) | 12.6 (5) |
| Bergen | 844,535 (1) | 3,602 (4) | 204,596,090 (2) | 242 (13) | -5.8 (18) | 1.8 (17) | 23.30 (11) | 17,962 (1) | 4.6 (15) | 4.1 (19) |
| Burlington | 377,726 (10) | 462 (14) | 66,795,617 (12) | 177 (21) | 12.2 (7) | 21.8 (9) | 17.81 (16) | 12,278 (13) | 4.2 (16) | 6.3 (15) |
| Camden | 485,064 (7) | 2,158 (6) | 142,796,935 (5) | 294 (4) | 3.4 (13) | 8.2 (14) | 21.87 (14) | 11,999 (17) | 5.2 (10) | 11.8 (6) |
| Cape May | 88,985 (19) | 338 (16) | 34,902,030 (17) | 392 (5) | 38.1 (3) | 8.3 (13) | 14.51 (19) | 12,707 (11) | 9.7 (2) | 9.1 (9) |
| Cumberland | 134,002 (16) | 266 (17) | 37,599,710 (16) | 281 (7) | 9.5 (9) | 23.6 (6) | 22.30 (13) | 10,401 (21) | 10.5 (1) | 14.5 (3) |
| Essex | 841,528 (2) | 6,603 (2) | 295,723,274 (1) | 351 (1) | -8.8 (21) | 1.5 (18) | 23.39 (10) | 13,245 (9) | 7.0 (5) | 17.9 (1) |
| Gloucester | 205,555 (14) | 626 (12) | 44,087,999 (15) | 214 (17) | 15.8 (5) | 31.6 (4) | 27.65 (6) | 11,323 (18) | 5.8 (9) | 8.6 (10) |
| Hudson | 558,613 (4) | 12,034 (1) | 145,741,667 (4) | 261 (10) | -8.4 (20) | 0.0 (21) | 45.07 (1) | 11,194 (19) | 9.4 (3) | 16.9 (2) |
| Hunterdon | 91,800 (18) | 214 (20) | 19,581,604 (21) | 213 (18) | 25.3 (4) | 44.1 (2) | 17.33 (17) | 15,990 (5) | 2.5 (21) | 4.4 (18) |
| Mercer | 314,654 (12) | 1,392 (8) | 89,315,172 (10) | 284 (6) | 1.2 (16) | 27.6 (5) | 22.77 (12) | 13,930 (8) | 4.7 (14) | 9.4 (8) |
| Middlesex | 617,757 (3) | 1,986 (7) | 154,952,635 (3) | 251 (11) | 2.7 (14) | 16.0 (11) | 31.05 (3) | 14,520 (6) | 5.0 (11) | 6.3 (16) |
| Monmouth | 522,529 (5) | 1,108 (9) | 108,792,894 (7) | 208 (19) | 8.9 (10) | 22.6 (8) | 16.66 (18) | 13,975 (7) | 4.8 (13) | 7.5 (12) |
| Morris | 417,137 (9) | 887 (10) | 90,793,340 (9) | 218 (16) | 6.3 (12) | 8.5 (12) | 24.73 (9) | 17,364 (3) | 3.6 (19) | 3.5 (21) |
| Ocean | 371,254 (11) | 583 (13) | 73,959,741 (11) | 199 (20) | 66.0 (1) | 2.4 (16) | 11.10 (21) | 12,085 (16) | 4.2 (17) | 8.1 (11) |
| Passaic | 457,675 (8) | 2,384 (5) | 102,926,732 (8) | 225 (15) | -2.9 (17) | 1.3 (19) | 30.17 (4) | 12,636 (12) | 6.7 (6) | 12.8 (4) |
| Salem | 65,688 (21) | 187 (21) | 20,417,910 (20) | 311 (2) | 7.2 (11) | 44.7 (1) | 25.42 (8) | 10,869 (20) | 6.0 (8) | 11.6 (7) |
| Somerset | 208,934 (13) | 684 (11) | 50,701,464 (14) | 243 (12) | 2.4 (15) | 25.4 (7) | 25.73 (7) | 17,828 (2) | 3.0 (20) | 3.8 (20) |
| Sussex | 118,892 (17) | 226 (19) | 31,344,474 (18) | 264 (9) | 49.8 (2) | 21.8 (10) | 12.76 (20) | 12,172 (15) | 4.0 (18) | 5.5 (17) |
| Union | 506,235 (6) | 4,918 (3) | 116,324,422 (6) | 230 (14) | -7.2 (19) | 0.9 (20) | 27.23 (5) | 16,091 (4) | 6.3 (7) | 7.5 (13) |
| Warren | 85,343 (20) | 236 (18) | 22,509,581 (19) | 264 (8) | 14.1 (6) | 38.0 (3) | 20.42 (15) | 12,248 (14) | 4.9 (12) | 6.5 (14) |

¹Source: Division of Local Government Services, New Jersey Department of Community Affairs

²Source: Division of Planning and Research, New Jersey Department of Labor

³Source: Economic Policy Council and Office of Economic Policy

⁴Source: Bureau of the Census, United States Department of Commerce

⁵Source: Bureau of Economic Analysis, United States Department of Commerce

ture. State statute limits the ability of county government to determine its own structure. The existence of a variety of State mandated independent officers and agencies limits the ability of the county governing body to effectively plan and manage its own programs. County governments have made significant advances both in terms of an expanded county role and managerial improvements. The 1972 Optional Charter Law (NJSA 40:41A-1 *et seq.*) has allowed county government to centralize government operations under an elected or appointed leader and to absorb some functions operated through independent commissions. Non-charter governments have made significant managerial improvements by centralizing decision making and increasing managerial control and support. But additional revisions of State law are necessary to provide counties adequate flexibility to effect additional improvements. The county governing body must be able to determine policy, to organize county government, to make management decisions and to make effective budget decisions. In order to achieve these objectives, the statutory law which defines county government functions must be modified.

New Jersey State government has gone through a similar process of restructuring its functions to better meet its responsibilities. At the time of the adoption of the new State constitution, New Jersey consolidated the executive branch of State government from more than 100 departments, boards and agencies to 14 principal departments, all reporting to the Governor. The 1947 Constitution further limited the total number of State departments to twenty.

The Optional Municipal Charter Law of 1950 (NJSA 40:69A-1 *et seq.*) provided similar powers to municipal government. More than one hundred municipalities have reorganized themselves pursuant to that act. That act limits municipalities using the Mayor-Council Plan to ten departments. The Optional County Charter Act of 1972 authorizes counties to reorganize themselves along the same lines. Each of the charter counties has been reorganized. The non-charter counties should have similar powers to reorganize autonomous agencies into principal departments as they choose.

The focus of this report is an analysis of the restrictions inherent in State statute on the ability of the county governing body to manage operations. Recommendations are made for increasing the visibility and management capacity of the governing body. The distinctive and evolving relationship between State and county government is examined from various perspectives. The introductory chapter provides a background for this analysis by viewing New Jersey county government in a historic and national context.

PRIOR COMMISSION VIEWS

In its 1969 report, *County Government: Challenge and Change*, the County and Municipal Government Study Commission made an extensive analysis of county government functioning. The report concluded that there was a clear need for an effective regional level of government to deal with crucial issues. The functions of this regional government would be the following:

- to eliminate duplication
- to manage programs which cannot be efficiently administered on the municipal level
- to provide services on a voluntary basis for municipalities which are unable to manage them
- to work with municipal and State representatives to solve inter-governmental problems

The Commission concluded that the county is the appropriate regional governmental entity for provision of these services but would require significant restructuring to support new functions. The report found that county government is characterized by the following inadequacies:

1. **Legal inadequacy.** County government has limited powers and exists as an extension of State government to administer State programs. Counties need expanded legal powers including the right to reorganize their structure, to regulate in such areas as air and water pollution, to contract with municipalities to provide programs, and to offer regional programs.
2. **Fiscal inadequacy.** As an extension of State government, counties finance major statewide programs; the financial burden imposed by the State is eroding the powers of counties to finance discretionary local programs. Counties are required to fund a statewide court system and major State human services programs with no control over policy and management decisions. With a limited tax base, these escalating costs limit a county's potential for funding local programs directed towards specific county needs such as roads, programs for the elderly and county colleges.
3. **Structural inadequacy.** County government does not have adequate control over its own programs due to the power of independent agencies. The dual role for freeholders, who administer programs as well as make policy decisions, minimizes the development of an efficient system.
4. **Political inadequacy.** County government does not have the visibility which allows the development of strong political leadership.

As a result of this analysis of the need for a regional level of government and problems with the existing county government, the Commission recommended development of a new form of county government providing a stronger structural and administrative capacity. In response to these recommendations the legislature adopted the Optional Charter Law (NJSA 40:41A-1 *et seq.*) which will be discussed in Chapter IV. The four forms of optional charter government provide for the separation of legislative and executive powers, increased powers of centralization and a stronger administrative structure.

As an outgrowth of its emphasis on the county as the appropriate regional level of government, subsequent Commission recommendations have lead to significant legislation supporting an increased county role including the county library system (*The Development of Libraries and Networks in New Jersey*, 1980), flood control (*Flood Control Management: An Overview of Issues and Responses*, 1977), health departments (*Community Health Services: Existing Patterns—Emerging Trends*, 1974), water quality management (*Water Quality Management: New Jersey's Vanishing Options*, 1973) and solid waste planning (*Solid Waste: A Coordinated Approach*, 1972). The Commission has also documented the negative impact of State mandated programs on the discretion of county government (*County Mandates: The Judicial System and Human Services*, 1984 and *The Impact of Mandates on Counties*, 1981).

NATIONAL PERSPECTIVE

The problems faced by New Jersey's counties are similar to problems faced by county governments in other states. The source of these problems, as defined by the Commission's 1969 publication, is the historic origins of county government. The county was established as an administrative subdivision of State government based on the English tradition. The original governing body was the court with judges responsible for the courts, law enforcement, roads and tax collection.

In a review of county government development and functioning published by the National Association of Counties in 1977, Duncombe distinguishes between the traditional and modern functions of county government and documents the tremendous growth in county responsibilities.³ The author lists the following as traditional county services:

- property tax assessment and collection
- recording deeds
- elections
- courts
- criminal prosecution
- police patrol
- criminal records
- jail or detention
- road construction
- road maintenance
- vital statistics
- communicable disease control
- fairgrounds

Duncombe compiled a survey in 1975 to indicate the extent of modern county government programs. The results of this analysis are presented in Table 2. These services could be offered to the entire county or some portion of the county. The tremendous diversity which characterizes county government functioning is apparent. The traditional functions, including tax assessment and collection, police and corrections, and road construction and maintenance, remain the most popular services provided by counties throughout the country. Public health and social services are also significant county programs. Nationally, responsibility for environmental protection and public utilities does not extend to as many counties perhaps reflecting the rural character of many of the nation's counties.

The expansion of county programs throughout the nation represents a notable change from the traditional county functions involving courts, roads and tax collection. The older functions are still the most prevalent but the new configuration of county functions indicates a much broader role in the provision of services and reflects the general growth in public programs.

THE NEW JERSEY SYSTEM

The national trends are reflected in New Jersey's experience. Before 1798, New Jersey county governing bodies consisted of freeholders and county judges with responsibility largely restricted to the justice system, poor houses and general administration (Effross, 1975).⁴ This changed during the nineteenth century with the separation of the judicial function and with the addition of responsibilities for bridges, penal institutions, psychiatric hospitals, parks and other activities. The subsequent growth in county functions during this century has been particularly pronounced.

Analyses of county budget changes over the 15-year period from 1968 to 1983 indicates major absolute and relative growth in a number of program areas. The greatest relative growth occurs in such popular programs as county colleges, vocational education, specialized human service programs, public safety, including the prosecutor and sheriff, and the broad category of general administration.

In a recent unpublished review of State and local governments, Reock (1985) concludes that there has been growth in State and county responsibilities relative to municipal functions.⁵ This is due largely to the growth in higher education at the State and county levels. Table 3 shows the distribution of employment across the major functional areas for State, county and municipal governments for 1957 and 1983. The major employment categories for each level of government have remained the same except for the growth in higher education for counties and the State and a decline in the share of employees allocated to county highway programs. Major program responsibilities are the following:

- State level—higher education, hospitals and highways
- County level—public welfare, hospitals and higher education
- Municipal level—police and fire protection and highways

TABLE 2

A NATIONAL PERSPECTIVE: PERCENT OF COUNTIES WITH RESPONSIBILITY FOR VARIOUS SERVICES¹

| | | | | | |
|--|------|--|------|--|------|
| Finance | | Social Services | | Land Use | |
| Property tax assessment | 92.5 | Income maintenance | 45.6 | Comprehensive land use planning | 66.9 |
| ² Property tax collection | 95.6 | Emergency financial assistance | 64.3 | ² Zoning | 63.2 |
| Police Protection/Corrections | | Food stamps | 72.9 | Growth management | 46.7 |
| ² Patrol | 93.1 | Family social services | 64.7 | Open space control | 33.9 |
| Detective investigation | 90.5 | Individual social services | 55.8 | Subdivision control | 68.0 |
| Forensic investigation | 82.3 | Services to the aging | 67.4 | Community Development/Housing | |
| Criminal records | 91.1 | Child welfare services | 77.2 | ² Building code enforcement | 48.7 |
| Central emergency number | 48.0 | Day care services | 42.9 | ² Housing code enforcement | 32.7 |
| Detention facilities | 89.1 | Human resources planning | 46.2 | Conventional public housing | 18.1 |
| Work release program | 43.9 | Manpower | | Leased public housing | 13.9 |
| Adult probation program | 57.0 | Job training | 53.2 | Rural housing programs | 16.1 |
| Juvenile probation program | 75.8 | Work experience programs | 59.7 | Industrial development | 43.6 |
| Judicial | | ² Public service employment | 76.2 | Parks | |
| General jurisdiction courts | 89.2 | Transportation | | Park acquisition | 52.2 |
| Limited jurisdiction courts | 83.2 | Road maintenance | 87.0 | Park development | 53.7 |
| Juvenile/family court | 81.4 | Road construction | 84.8 | Park maintenance | 54.2 |
| Legal Services and Prosecution | | Public parking facilities | 25.1 | ² Neighborhood parks | 29.4 |
| Criminal prosecution | 88.2 | ² Mass transit | 13.3 | County parks | 56.6 |
| ² Legal/civil services | 52.8 | Airports | 42.4 | Culture and Recreation | |
| ² Indigent defense | 76.3 | Highway safety | 40.9 | Recreational services | 45.3 |
| Other Public Safety | | Bikeways | 18.7 | Fairgrounds | 49.1 |
| Fire protection | 54.5 | Public Utility | | ² Stadiums | 8.9 |
| Emergency medical services | 66.0 | Water supply | 22.2 | ² Convention centers | 6.0 |
| Disaster preparedness | 90.3 | ² Power supply | 6.4 | Marinas | 5.7 |
| Public Health | | Sewage treatment | 26.3 | Swimming pools | 15.8 |
| Home health | 76.8 | Natural Resources | | Museums | 24.2 |
| Maternal and child health | 74.0 | Flood/drainage control | 52.4 | Performing arts | 8.7 |
| Communicable disease control | 79.0 | ² Irrigation | 10.5 | Education | |
| Dental health | 38.8 | Soil conservation | 63.0 | ² Pre-school | 18.5 |
| Mental health facilities | 49.7 | ² Coastal zoning | 10.4 | ² Elementary and secondary | 23.9 |
| Mental health outpatients | 79.3 | Energy conservation | 22.7 | Community College | 11.6 |
| ² Mental retardation facilities | 38.4 | Energy management | 15.1 | Vocational technical | 24.9 |
| ² Training of mentally retarded | 56.8 | ² Solid waste collection | 49.0 | Miscellaneous | |
| Alcoholism/drug programs | 67.3 | Solid waste disposal | 70.5 | Land records | 97.2 |
| Animal control | 58.1 | Water pollution control | 32.9 | Vital statistics | 84.7 |
| Sanitation inspection | 60.8 | Air pollution control | 23.8 | Elections | 96.8 |
| ² Hospital care | 46.9 | Noise control | 11.0 | Libraries | 76.4 |
| Outpatient medical services | 43.1 | | | Public information services | 32.6 |
| Home for the aged | 42.9 | | | Consumer protection services | 15.2 |
| | | | | ² Cable television | 13.4 |

¹This Table is derived from *Modern County Government* (pp. 135-137) by Herbert Sydney Duncombe which was published by the National Association of Counties in 1977. The Table is based on the counties responding to a national survey.

²These services are not normally provided by New Jersey counties.

TABLE 3
LEADING SECTORS OF PUBLIC EMPLOYMENT FOR NEW JERSEY
STATE AND LOCAL GOVERNMENT¹

| 1957 | | 1983 | |
|---------------------------|----------------|---------------------------|----------------|
| STATE GOVERNMENT | | | |
| Hospitals | 7,459 (25.8%) | Higher Education | 19,889 (23.0%) |
| Highways | 4,109 (14.2%) | Hospitals | 16,698 (19.3%) |
| Government Administration | 3,479 (12.0%) | Highways | 8,250 (9.5%) |
| Higher Education | 3,290 (11.4%) | Government Administration | 7,703 (8.9%) |
| COUNTY GOVERNMENT | | | |
| | | (1982) | |
| Hospitals | 6,330 (33.7%) | Public Welfare | 9,438 (16.1%) |
| Highways | 2,728 (14.5%) | Government Administration | 9,116 (15.6%) |
| Government Administration | 2,315 (12.3%) | Hospitals | 7,877 (13.5%) |
| Public Welfare | 1,303 (6.9%) | Higher Education | 6,302 (10.8%) |
| MUNICIPAL GOVERNMENT | | | |
| | | (1982) | |
| Police | 11,306 (25.2%) | Police | 21,605 (32.5%) |
| Fire | 5,768 (12.9%) | Government Administration | 9,393 (14.1%) |
| Government Administration | 5,336 (11.9%) | Fire | 6,897 (10.4%) |
| Highways | 4,668 (10.4%) | Highways | 6,182 (9.3%) |

¹This Table is derived from an unpublished report, "Trends in Allocation of Services and Fiscal Responsibilities in New Jersey State and Local Government," by Ernest Reock for the Office of Management and Budget. The numbers in parentheses present the percentage of employees as a proportion of total employees for each government level.

RECENT PROGRAM EXPANSIONS

The existing county system operates within many of the historic limitations delineated in the Commission's 1969 report, *County Government: Challenge and Change*. But as already noted, the county is in a state of transition. Optional charter governments have made structural improvements. Traditional county governments have made similar managerial improvements. There has also been a gradual expansion in the functions which county government provides. County government has acquired new roles which allow increased decision-making and managerial initiatives. Although there is much overlap, the following pattern could be used to categorize this growth:

1. **Services to municipalities.** In response to needs for direct support for municipal functions, county governments have provided a coordination role. In the law enforcement area, counties are providing a series of training and radio dispatch services. Counties provide training to local fire departments. Other counties coordinate the response of local police departments through dispatch services. Counties now provide health services to 308 municipalities on a contractual basis. County government also provides data processing services and direct group purchase services for municipalities allowing financial benefits from bulk sales. These services are not provided by all counties. In some cases, fully developed municipalities may not need county services; in contrast, rural and developing areas often effectively utilize county provided programs.
2. **Discretionary Regional Services.** Counties may also respond to the direct needs of their citizens for a variety of programs allowed under permissive State statute. Colleges have become a priority with nineteen county college systems and \$74 million in county funding. Fourteen counties have also chosen to offer library programs as independent entities or in conjunction with municipal systems. Four counties have developed special services school districts to provide educational services for children who are not being served by local school districts. Most counties have established consumer affairs offices to provide protection for the public in purchasing goods and services. Economic development offices are also a priority for some counties. In addition, through the use of authorities or their own agencies, counties have undertaken a greatly increased role in treating and disposing of solid waste and sewerage.
3. **Administration of State-Federal Programs.** State government increasingly relies on county government to plan and manage programs. In contrast to the historic State mandates, newer programs often allow significant policy-making and managerial initiatives at the county level. In the environmental protection and human services areas, State departments and the legislature are relying on counties to participate in the implementation of State programs.

Counties are participating with the State in determining where State and federal funds can be utilized through the operation of County Human Services Advisory Councils and County Mental Health Boards. Counties utilize monies provided by the Alcoholism Education Rehabilitation and Enforcement Fund administered by the State Department of Health to provide alcoholism control programs. Counties provide job training programs through federal aid and special transportation programs through Casino Revenue Funds. Programs for the elderly are provided in cooperation with the State through the federal Older Americans Act. Counties also have a clear role in the environmental protection area including responsibility for solid waste planning and environmental health. Water quality management is another potential area for growing county responsibility.

New Jersey county government has significantly expanded its role beyond earlier traditional responsibility for building roads and administering the courts. The county has become a complex governmental level with a broad range of responsibilities. Current demands for public services require a regional approach utilizing modern management and technology. Effective program development is based on understanding the local physical and social environment. Planning a community college, an environmental health program or a system for alcoholism treatment demands understanding existing services and needs and the ability to negotiate solutions among local decision-makers. Counties have demonstrated their ability to be sensitive to these issues while implementing major programs.

The future development of counties will probably see a growth of county government roles in three different areas: (1) a wide range of human services programs which are increasingly community-based; (2) environmental programs which have become significant due to modern life styles and industrial methods; and (3) the management of growth which has created tremendous pressures in some sections of the State.

This expanded role, especially in the human services and environmental areas, will occur partially as a response to local concerns and partially as the county assumes responsibility for planning and administration of State programs. The State has tremendous legislative and financial responsibilities in the human services and environmental areas and, as previously discussed, has relied on county government for management of local programs. These new responsibilities have increased the ability of counties to act as effective regional governments and to meet the needs of their residents.

SCOPE OF REPORT

This report directly addresses the structure of county government focusing on historical patterns, current status and future directions. The major objective is to increase the power of the county governing body to manage governmental operations through relaxation of State statutory restrictions. Chapter II considers the role and responsibilities of the Board of Freeholders, freeholder director and county administrator in non-charter counties and recommends changes designed to increase the Board's visibility and ability to manage. Chapter III deals with the multiple agencies of county government and makes recommendations authorizing non-charter counties to merge these agencies into principal departments of county government. It also considers reorganization of State-appointed officers in all counties so that the responsibility for management and funding are unified at either the State or county level. Chapter IV describes the charter counties in terms of government operations and the relationship of the Board of Freeholders with the chief executive official.

The report considers issues relating to counties functioning under both the optional charter and non-charter forms of government. Some recommendations in Chapters II and III will extend options currently available under

the Optional Charter Law to all counties. However, none of these recommendations change the basic form of non-charter government—the Board of Freeholders is responsible for both the legislative and executive functions of county government.

CHAPTER II

THE ROLE OF THE FREEHOLDER BOARD IN NON-CHARTER COUNTIES

The management structure of modern New Jersey counties is changing; county government has operated historically as a federation of quasi-independent agencies under the general coordination of the Board of Freeholders. The existence and powers of State-appointed entities, independently elected officials, autonomous boards of education, and autonomous commissions greatly reduces the policy-making and management responsibility of the Board of Freeholders. Nevertheless, the Board of Freeholders uses its prestige as the elected governing body of the county, its budget power and its appointment power to integrate the activities of all these autonomous agencies with each other and with those agencies it maintains direct responsibility for.

In the past, both policy-making and management responsibility in county government have been administratively diffuse and difficult to define. The Board of Freeholders, however, filled both roles. There was limited use of central administrative processes for budget, personnel or other support functions. Individual administrative units reported to separate freeholder committees or individual freeholders with the Freeholder Board acting as the unifying entity in the system. There was limited organized policy development, management oversight or formalized integration among offices. The structure of the Freeholder Board with power shared among its members who are responsible for both legislation and management did not result in a centralized form of government.

However, recent changes in county government have centralized policy development and management. The most obvious changes have been due to the Optional Charter Law which separates the legislative and executive powers of the county government (NJSA 40:41A-86) and allows reorganization of autonomous agencies as long as the required function was being performed by county government (NJSA 40:41A-26). Under charter government, there are clear policy-making and management roles.

However, similar changes have occurred in counties which have not undergone charter change. These changes have involved the development of organizational structure based on principal departments (which will be discussed in the following chapter); the development of an increased role for the county administrator; and greater use of central budget, personnel and purchasing functions by the county.

The focus of this chapter is the power available to the Board of Freeholders to determine policy and to manage the multiple programs and activities of county government. Recommendations are made to increase the power of the Board of Freeholders through statutory changes. The advantages

to the Board of Freeholders through the use of a full-time professional administrator are also discussed.

FREEHOLDER BOARD

The governing power of the county is vested in the Board of Chosen Freeholders. The statute NJSA 40:20-1 provides:

The property, finances and affairs of every county shall be managed, controlled and governed by a board elected therein, to be known as "the board of chosen freeholders of the county of (specifying name of county)", except where by law any such powers or duties are imposed upon or vested in another board, committee or department of the county.

The first half of this statute appears to place full responsibility for the property, finances and affairs of county government squarely on the shoulders of the Board of Freeholders. Unfortunately the second half of the statute creates a significant exception to the powers of the Board of Freeholders in non-charter counties.

For non-charter counties, both policy-making and executive responsibility is vested in the Freeholder Board. As will be discussed in Chapter IV, the Board of Freeholders in optional charter counties maintains a legislative policy-making role with executive responsibility vested in an independently elected or appointed official.

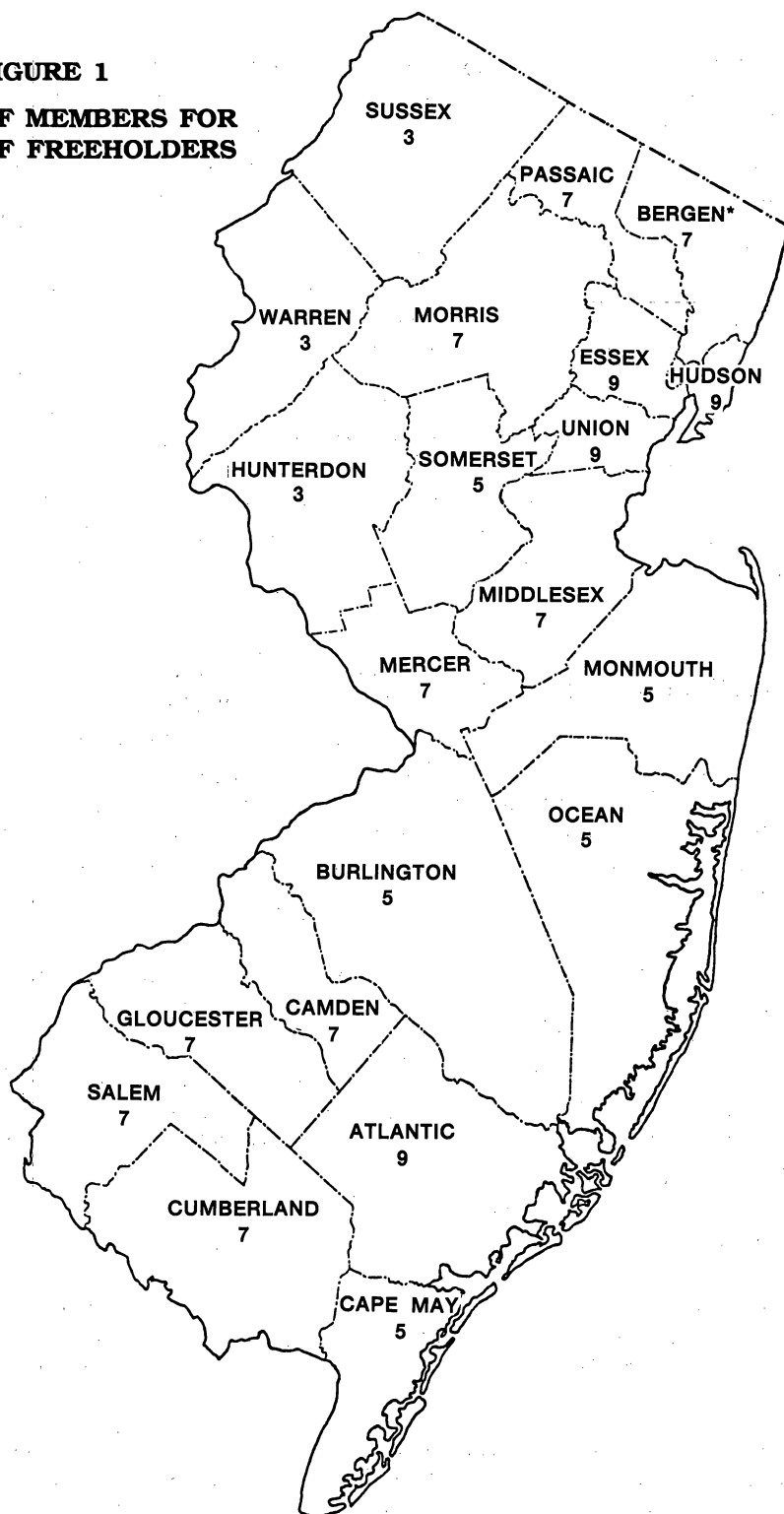
Historically counties elected one or more freeholders from each municipality in the county. Recent practice has been that the size of Freeholder Boards has been determined by county population. However, the statutes were amended in 1981 to allow the size of the Freeholder Board to be established at three, five, seven or nine members through referendum in any non-charter county without regard to population size (NJSA 40:20-20). The size of freeholder boards for New Jersey counties is presented in Figure 1 and summarized as follows:

- nine members: Atlantic*, Essex*, Hudson*, Union*
- seven members: Bergen*, Camden, Cumberland, Gloucester, Mercer*, Middlesex, Morris, Passaic, Salem
- five members: Burlington, Cape May, Monmouth, Ocean, Somerset
- three members: Hunterdon, Sussex, Warren

When establishing an optional charter form of government, a county must choose a Freeholder Board composed of five, seven or nine members which are elected from districts, at-large or through a combination of these two alternatives. The members may have staggered or concurrent terms. In contrast, non-charter counties are restricted to at-large elections with staggered terms.

*Charter counties; Bergen County currently has nine freeholders but will change to a seven-member board in November 1986 when the change to an optional charter county occurs.

FIGURE 1
NUMBER OF MEMBERS FOR
BOARDS OF FREEHOLDERS



*Bergen County currently has a nine-member Board of Freeholders but will change to a seven-member Board with the transition to the Executive Plan in November 1986.

The Board of Freeholders acts as a whole by resolution to formulate county policy. Statute requires Freeholder Board approval of a variety of administrative and fiscal actions including the budget, contracts and personnel actions. However, the exact method by which a Board exercises its administrative responsibilities is not specified by statute. Freeholders generally form committees which are responsible for managing the various county administrative units. The heads of these administrative units frequently report to the chairperson of one of the freeholder committees. However, the extent of freeholder involvement in direct administration varies greatly across counties. Some Freeholder Boards have delegated management responsibility to the county administrator or a department head. Under these circumstances, the Board of Freeholders acts as a board of directors with overall policy-making responsibility leaving direct management to administrative personnel. Other Boards maintain direct supervision of county government offices through the Board as a whole, through the chairpersons of the committees or through individual freeholders. The implementation of this management responsibility will be further discussed in the following sections of this report.

FREEHOLDER DIRECTOR

The Freeholder Board chooses one of its members to be the director for a one-year term. The director has the power to appoint freeholders to committees, to make certain appointments to boards and by statute is a member of other boards including the Planning Board and the Board of School Estimate. Some counties select the same person to be the director during successive years while other counties rotate this position among freeholders on an annual basis.

The statute creating the freeholder director's position provides that the director preside at meetings of the board. The statute, NJSA 40:20-71, provides:

Every board of chosen freeholders shall, at each annual meeting, elect one of its members to preside at its meetings. He shall be called the director of the board and in case of his absence or temporary disability the board shall select another of its members to preside at any meeting.

In addition, to presiding at the Board of Freeholders meeting, the freeholder director performs many other functions. Usually the county administrator and other central support staff of county government report to the Freeholder Board through the freeholder director. The director often makes an annual "State of the County" message, serves as the ceremonial head of county government and presides at numerous public functions in this capacity.

The freeholder director plays a central role in the formulation, adoption and implementation of county policy. The director may act as a catalyst and leadership force within the Freeholder Board and within county government generally. The director is a primary spokesman for county government when the government interacts with outside groups.

COUNTY ADMINISTRATOR

The statute establishing an administrator was enacted in 1967 and authorizes the Board of Freeholders to appoint an executive officer for a three-year term. Duties of the county administrator are to be specified in the resolution creating the position. There is wide variation among counties in assigning functions to the administrator. The statute, NJSA 40A:9-42, provides:

The board of chosen freeholders of any county, other than a county having a county supervisor, may by resolution create the office of county administrator, to act as the executive officer for the board to have such powers, perform such duties and to receive such compensation as the resolution creating such office shall provide and as may from time to time otherwise be directed by the board by resolution.

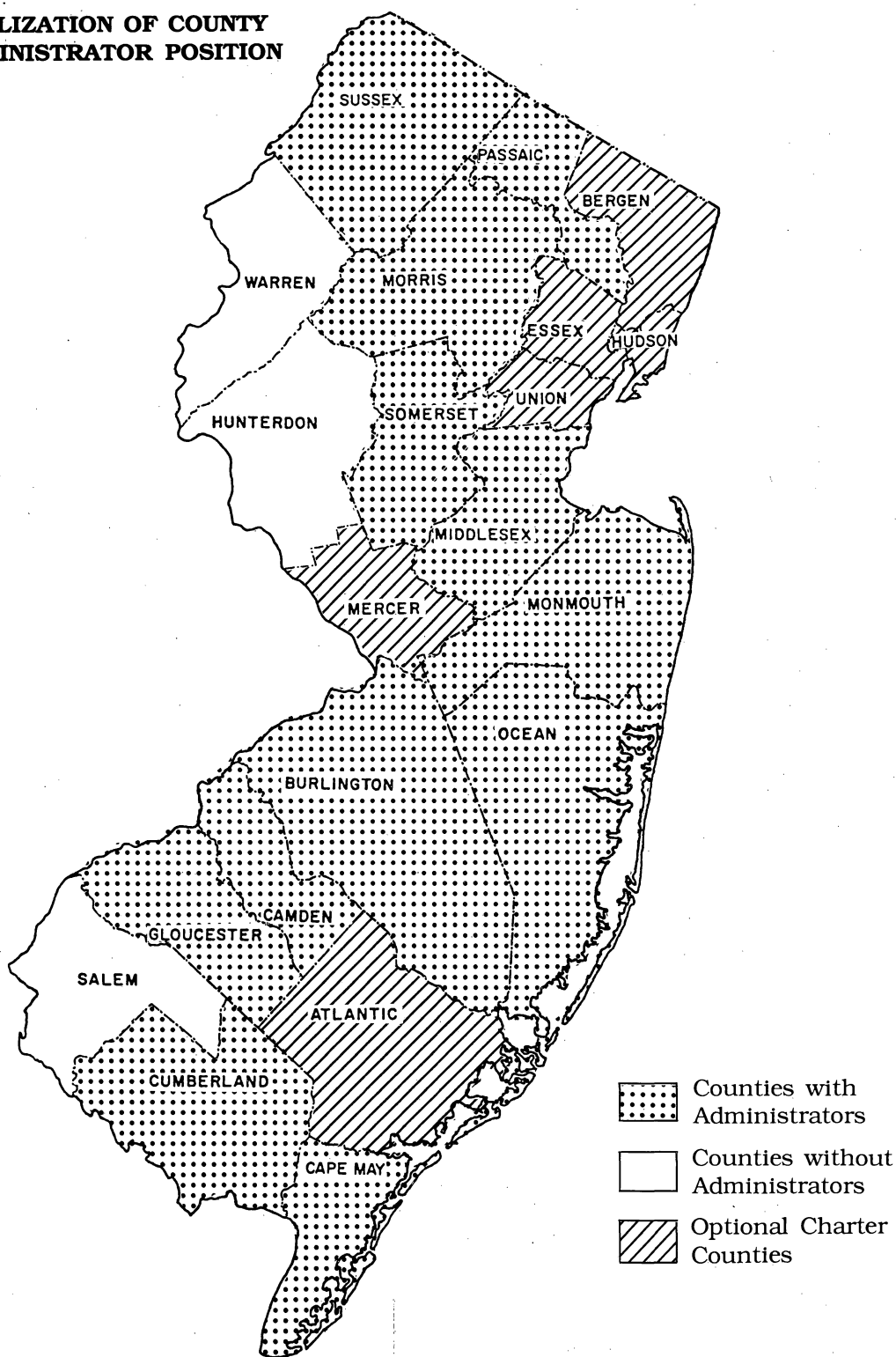
In any county creating the position of county administrator the board by majority vote of all its members shall appoint some suitable qualified person to such office for a term of 3 years and until appointment and qualification of his successor.

Historically, in county government, the chairperson of each freeholder committee assumed responsibility for management of a number of administrative agencies assigned by the Board to the committee. The administrator function has evolved from this structure and has increased the centralized management capacity of county government. The administrator assumes responsibility for integrating the separate county functions or for direct administration previously exercised by individual freeholders. Utilization of the administrator position has been a significant organizational change in county government operations.

Of the fifteen non-charter counties, twelve counties currently use the county administrator position as indicated in Figure 2. Only Hunterdon, Salem and Warren Counties do not have an administrator. A recent management study by the Governor's Local Management Improvement Program has recommended, however, that Salem hire an administrator. In Burlington and Cape May counties, one person serves as the Clerk of the Freeholder Board and the Administrator.

Variation in the role and responsibilities of the county administrator is extensive ranging from acting as liaison between the Freeholder Board and administrative personnel to direct managerial responsibility for operating units. In the later case, the Freeholder Board may view its role as that of a board of directors whose major responsibility is the development of policy direction for the county. In this system, implementation and operations oversight are the responsibility of a central administrator. The growing complexity of government operations and the need for consistent professional administration and for a county-wide perspective have led some Freeholder Boards to choose this approach to government operations. Other Freeholder Boards and individual freeholders in some counties have chosen to maintain a more direct role in government management and are involved in directing daily operations. In addition, there may be some discrepancy between the responsibilities defined by the resolution establishing the administrator position and the actual operation of the system.

FIGURE 2
UTILIZATION OF COUNTY
ADMINISTRATOR POSITION



There is also considerable variation within an individual county in terms of the functioning of the administrator with regard to different departments. For example, an administrator could directly control the building and maintenance function but have relatively little role in the repair and maintenance of county roads. This variation may occur because freeholders define their role as policy-makers or as direct managers of operations. In another case, a specific department head could have long-standing connections to the Freeholder Board or an individual freeholder and, therefore, be unwilling to report through an administrator. These variations make it impossible to precisely specify the role of the administrator for each county. But there is a trend towards building a stronger administrator role with direct management responsibility or with strong coordinating responsibility. The function may be further expanded if the budget, personnel and purchasing offices report directly to the administrator. The non-charter counties which have organized a principal department structure (Camden, Morris and Bergen, prior to charter change) have chosen to give more managerial responsibility to the administrator. In other counties including Burlington, Passaic and Sussex, the Board of Freeholders has also developed a county administrator position with stronger administrative responsibilities.

While there has been movement to a strengthening of the administrator position, this trend may be limited by the existing county administrator statute and judicial interpretation of those powers. According to a 1968 appellate court decision in the case of *Zweig vs. Bergen County Board of Freeholders*, county government is limited in its ability to delegate responsibilities to an administrator.⁶ In line with previous decisions, the court concluded that county government was created by State government with specified powers delegated by legislation. The court found further that the Board of Freeholders could not delegate these powers unless expressly given permission to do so through legislation. Therefore, the Board of Freeholders could not delegate decisions which were legislative or which required discretion. In this court decision, legislative decisions were defined to include: the power to appoint, promote, remove, suspend and supervise all department heads, and the power to control the internal organization and reorganization of organizational units. The court concluded that the Board of Freeholders would require legislative authorization to delegate these powers. This is another example of the existence of State standards which prevent county governments from utilizing the management strategy of their choice. The Commission recommends the enactment of such a statute as described later.

CENTRAL SUPPORT FUNCTIONS

A historical weakness of county government documented by earlier County and Municipal Government Study Commission reports was the lack of centralized processes such as budget, personnel and purchasing. These functions were generally not well developed twenty years ago, resulting in the lack of central control over policies and procedures within county government. The impact was even more severe since the series of independent boards, commissions and constitutional officers operated largely outside of central

county government control. This means that while the Freeholder Board must fund these programs largely through the property tax, the governing body has little control over policy or over financial and administrative operations for them.

The Optional County Charter Law addressed these issues in several ways. The development of centralized budget, personnel and purchasing functions was encouraged; and powers were provided to integrate the functions of a number of independent boards and commissions into county government (NJSA 40:41A-26). In addition, the Optional Charter Law states that the constitutional officers and independent boards may be required to comply with county budget and administrative procedures (NJSA 40:41A-125).

As with other organizational changes, the movement towards centralized support functions has been most clearly evident in optional charter counties. In addition to budget, personnel and purchasing functions, other administrative supports (data processing, printing, and insurance) have been developed for use by all county operations. The same general trends are found in counties operating under the non-charter form. These counties have a more difficult task in strengthening their oversight functions given the unnecessarily restrictive State laws which apply to them. As previously discussed, the budget function in many counties has been expanded with clearly defined procedures including the preparation of individual agency budgets, the review and analysis of the budgets by central administrative personnel and the organized presentation of the composite budget to the Freeholder Board. There is financial monitoring based on the budget. These budget and other financial procedures may extend to the constitutional officers, semi-autonomous boards and commissions.

ISSUES: A CENTRALIZED SYSTEM FOR OPERATIONS

The movement apparent in both charter and non-charter governments towards a more effective administrative structure is a significant positive development. A stronger management system permits counties to provide services to their citizens more effectively and economically and enhances the potential for county government as a regional government force. A better organized county government system is more able to meet the demands of increased responsibilities. The movement towards a stronger central government core is evidenced by greater centralization for both the legislative and administrative functions. These recommendations are focused on further strengthening the central core of non-charter governments by enhancing the ability of the Board of Freeholders to plan and manage county government operations.

The Board of Freeholders statute should place the policy-making and administrative powers of the county in the Board of Freeholders and authorize the delegation of those administrative powers which the board chooses to freeholder committees, the freeholder director or the county administrator. The Board of Freeholders would describe the method for executing these

powers through a resolution which describes the administrative structure and related responsibilities.

Recommendation II-1: The Board of Freeholders statute for non-charter counties should be amended to place all executive and legislative powers of the county in the Board of Freeholders. The Board should be given the power to delegate administrative responsibility through resolution.

The stability of the Freeholder Board would also be enhanced by increasing the freeholder term of office from three to four years with elections occurring only once every two years. Under the current system, non-charter governments have freeholder elections every year. During much of each election year the Board must devote a considerable portion of its energies and attention to matters which have an impact on the upcoming election. For a Board which is responsible for the administration of a multimillion dollar entity, this severely limits the amount of time which can be devoted to objective consideration of the numerous policy-making and administrative issues for which they are responsible.

The combined effect of lengthening the freeholder term of office and decreasing the frequency of elections would enhance the ability of freeholders to operate effectively. Increasing the amount of time that freeholders serve between reelection contests and reducing the pressures on all freeholders resulting from annual elections should provide more time for the Board of Freeholders to focus its attention on solving county problems. With a longer term of office, individual freeholders will have more opportunity to learn about county issues and develop policies without the time demands and pressures associated with more frequent contests for public office. These two changes should enhance the efficiency of Freeholder Boards while maintaining accountability to the public.

Recommendation II-2: The Commission recommends that a statute be enacted authorizing non-charter counties, by referendum, to provide for four-year terms of office for freeholders with elections occurring every second year.

The effectiveness of the Board of Freeholders in managing county government operations would also be improved by authorizing the Board to delegate full management power to the county administrator. A Board of Freeholders should be authorized to delegate various responsibilities to a county administrator including preparation of the budget, management of other county units and appropriate decisions on hiring and promoting. Legislation explicitly stating these responsibilities should be adopted since prior court decisions limit the power of county government to delegate responsibility.

Counties should have the option of developing the specific county administrator role and management plan which meets their needs. A particular Freeholder Board might act as a board of directors and give significant responsibility for management of daily operations to the county administrator. The members of another Freeholder Board might choose to remain more active as department heads and give the county administrator responsibility for

coordinating operations of separate offices. There are obviously a wide range of methods for dividing administrative responsibility; an individual county would determine its own system through the adoption of appropriate resolutions. The Commission, however, supports the delegation of significant managerial responsibility to the county administrator.

If a county decides to delegate substantial responsibilities, the county administrator's role could include the following duties:

- to manage the activities of county offices
- to prepare the operating and capital budgets for consideration by the Board of Freeholders
- to recommend the organization and reorganization of county government units
- to manage the purchasing process
- to supervise the personnel process
- to recommend to the freeholders actions appropriate for economical operations.
- to hire, fire, promote and demote personnel

Other counties would choose a more limited role for the administrator. An intermediate level of responsibility for the administrator might include coordination of county offices and supervision of the budget, fiscal and personnel processes. A yet more limited role for the administrator might be coordination of projects which involve more than one office and recommendations on management issues.

While the Commission believes that counties should have the option of forming the specific government structure which they choose, the Commission also supports delegation of significant managerial responsibility to the administrator. A strong administrator role is significant to the development of a centralized government which insures program integration and management oversight. A crucial aspect of the administrator role is oversight of the budget and personnel functions since these offices are necessary for developing policy and management oversight of county units.

Recommendation II-3: The county administrator statute for non-charter counties should be amended to allow the Board of Freeholders to delegate a broader range of responsibilities to the county administrator. Each Board of Freeholders should develop by resolution a specific set of responsibilities for the county administrator.

Enactment of these recommended statutory changes will do much to strengthen the Board of Freeholders and other core agencies of county government and to reduce unnecessary State restrictions on the operation of county government. These structural initiatives are directed towards the same goals as charter reform. However, these structural changes are more limited since they do not include the separation of legislative and executive functions. The

Commission maintains its earlier support of the charter reform movement as the most decisive way of attaining a strong county government. Nevertheless, more limited structural changes of the type recommended here can accomplish similar goals.

CHAPTER III

THE AGENCIES OF COUNTY GOVERNMENT

State statutes have placed severe restrictions on the ability of the county to control its operations. The existence of autonomous and partially autonomous agencies with significant independent decision-making power has limited the ability of county government to effectively plan and manage government operations. Major policy, management and budget decisions are made by independent policy-making agencies appointed by the State or the county and independently elected officers. These officials and their agencies operate outside the direct control of the governing body. These agencies combine with other entities which are directly controlled by the Freeholder Board to form the county government system.

Despite this lack of direct management control, the Board of Freeholders funds these independent units through the property tax. While having funding responsibility, the Board of Freeholders does not have responsibility for policy development and management in major segments of county government.

The governing body of the county (the Board of Freeholders in non-charter counties or the Board of Freeholders and the county executive or manager in optional charter counties) is the central core of county government with appointment and/or funding responsibilities for the entire governmental system including the following units:

1. County-appointed statutory boards
2. State-appointed boards and personnel
3. Elected officers
4. Education boards
5. Independent authorities
6. County agencies

The central governing body is responsible for funding the entire governmental system (with the exception of some authorities). However, significant decisions are made outside the governing body's control. Only in the case of county agencies are decisions made directly by the governing body. Policy and personnel decisions for autonomous and quasi-autonomous units are outside their direct control. The budget is negotiated with the Freeholder Board but in some cases, the autonomous unit has major control over financing (as for instance in the court system).

Figure 3 summarizes the relationship of the county governing body with the various separate entities of non-charter government. The power of the governing body in relation to policy boards, State-appointed officials, elected officers, education boards and independent authorities consists largely of funding and/or appointment of board members. Decision-making and management powers are vested in the autonomous or semi-autonomous unit. Only for county agencies does the Freeholder Board have direct responsibility for policy and management. This pattern is also characteristic of optional charter counties except that the county governing body may assume direct management of the policy-making boards.

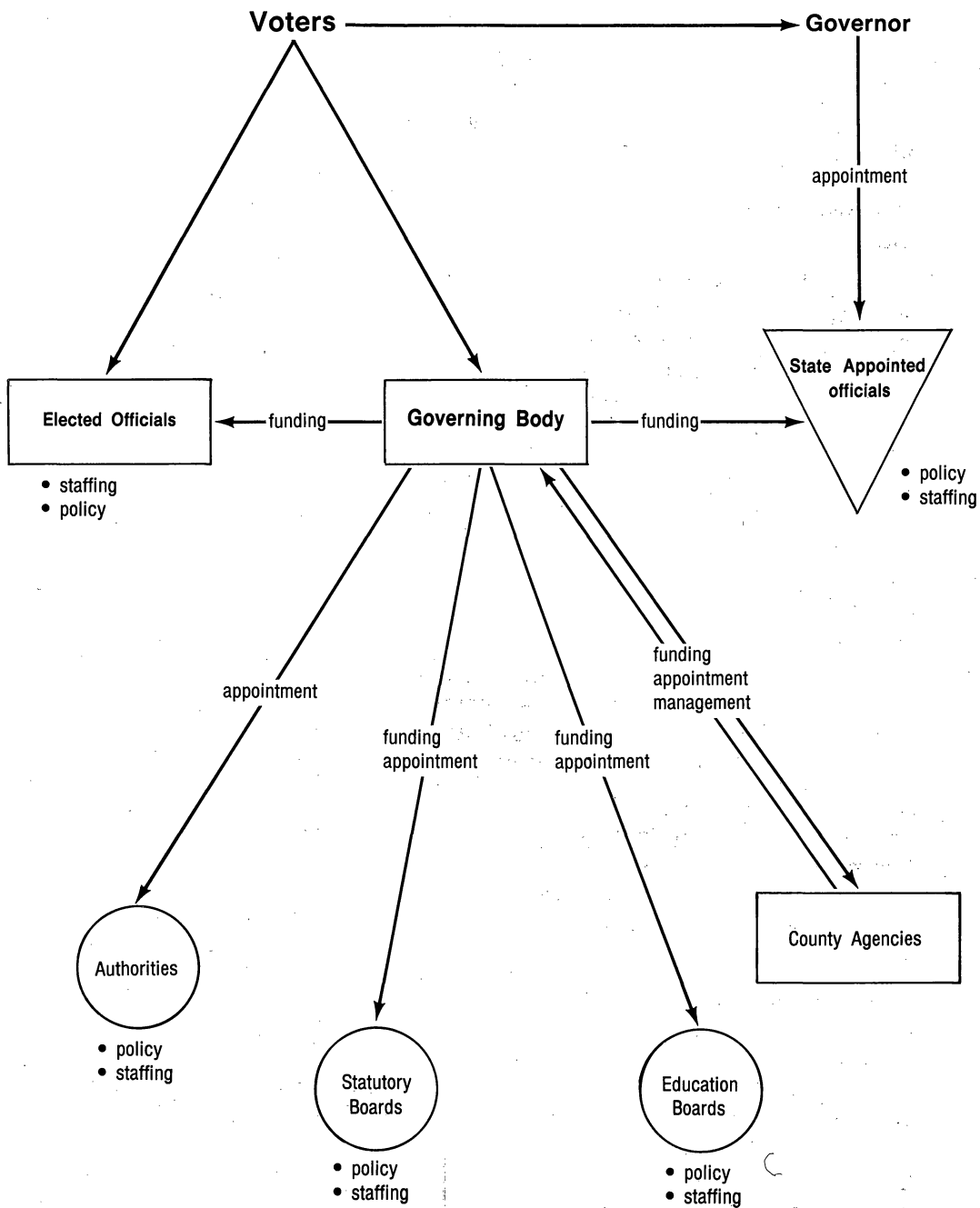
The remainder of the chapter delineates the structural units of county government in terms of their functions and their relationship to the governing body. Organizational charts, a budget summary and typical staffing patterns are presented to indicate the size and the relationships of the various agencies. The chapter concludes with an analysis of the system within the limits of State statutes. Recommendations are made to allow integration of some agencies into principal departments of county government and in some cases to transfer functions from county government to State government. The resulting government structure allows the governing body control over the units which remain part of county government.

COUNTY-APPOINTED STATUTORY BOARDS

Statutes have created or authorized the creation of autonomous boards and commissions which are appointed by the county governing body and which have clear statutory responsibilities distinct from those of the governing body. These boards have a variety of functions covering a wide range of government services. The Board of Social Services, Mosquito Control Commission, Parks Commission, Shade Tree Commission and Boards of Managers for nursing homes and psychiatric hospitals manage their own budgets upon receipt of an appropriation by the Freeholder Board. Other boards such as the Mental Health Board, Planning Board and Cultural and Heritage Commission have staff which are sometimes integrated into county government operations. All boards negotiate their budgets with the governing body. These boards are responsible for 30% of county operational expenditures and 30% of county employees. Under the optional charter form of government, the county may eliminate the independent status of the board and make the staff part of government operations. In charter counties the board is often retained as an advisory body.

- **Board of Social Services**—The Board of Social Services is appointed by the Board of Freeholders. The Board consists of from five to seven members and includes two Freeholders. The Board of Social Services has responsibility for a number of support programs for low income families including the aid to families with dependent children, food stamps, home energy assistance, child support payments and various social service programs. These programs are supported by a combination of federal, State and county funds. Three counties operating under the Optional Charter Law provide these programs through a department of county government.

FIGURE 3
STRUCTURE OF NON-CHARTER COUNTY GOVERNMENT



● **Mosquito Control Commission**—The Mosquito Control Commission is appointed by the governing body. The Commission is charged with responsibility for limiting the growth of mosquito populations by treating of breeding areas, draining impounded areas and providing public education. The five optional charter counties provide these services through a department of county government.

● **Parks and Recreation**—Counties in New Jersey have a variety of means by which to organize their park and recreation systems. Nine counties within the state have County Parks Commissions created by referendum. The County Parks Commission is comprised of between five and nine residents of the county appointed by the Board of Chosen Freeholders. The Commission has the responsibility to acquire, construct, maintain and preserve public parks, playgrounds and recreation places for the county. Five other counties have Recreation and Parks Departments managed by the Board of Freeholders and two counties have Boards of Recreation.

● **Library Boards**—The Board of Chosen Freeholders of fourteen counties have established free county libraries upon approval of the voters in a referendum. The libraries are governed by a County Library Commission of five to seven members appointed by the governing body of the county. All county libraries are funded largely by a dedicated tax from the municipalities within the county which receive benefit from the libraries. Morris and some other counties have a special two-tiered system of funding, a dedicated tax and a share of the general county tax. Each library also receives per capita state support as well as other state and federal funds.

● **Planning Board**—The governing body may appoint a Planning Board consisting of from five to nine members. The freeholder director (or county executive) and one member of the Board of Freeholders are automatically members of the Planning Board. Responsibilities of the Board include preparation of the county master plan with recommendations for future development. The Board also has the responsibility for approval of all subdivisions of land affecting county roads or drainage facilities and may choose to review site plans within the same category.

● **Other Statutory Boards**—Other statutes authorize boards with policy-making and administrative powers including Boards of Health, Shade Tree Commissions, Consumer Affairs Boards, Cultural and Heritage Commissions, and Mental Health Boards. Nursing homes and psychiatric hospitals may be operated by independent Boards of Managers or the Board of Freeholders.

STATE-APPOINTED BOARDS AND PERSONNEL

The State exerts a significant influence on the operations of county government by appointing the following boards or officers: Board of Elections, superintendent of elections, Board of Taxation, county tax administrator, superintendent of schools, the prosecutor, agricultural extension agent and Soil Conservation District. The court system including the judges' staff, the Jury Commission and the Probation Department are part of the State judicial system which operates with minimal county control. Each of these offices

carry out State policies, define their own operational objectives, have significant control over their budgets and hire their own personnel. State-appointed officials account for 13% of county operational expenditures and approximately 14% of the county employees. These agencies are somewhat separate and distinct from both county government and State government. The phenomenon of one level of government appointing the officials of another level of government is not utilized in municipal government in New Jersey. The practice is also not found in county government in our neighboring states of Pennsylvania and New York.

- **Board of Elections**—The Board of Elections is composed of two Democrats and two Republicans appointed by the Governor upon nomination by the county chairpersons and state committee members. The Board is responsible for maintaining voter records, registering voters, and investigating complaints and violations of election laws. In counties with no superintendent of elections, the secretary of the County Board of Elections is the commissioner of registration for the county.

- **Superintendent of Elections**—Bergen, Burlington, Essex, Hudson, Mercer, Monmouth, Morris and Passaic Counties each have a superintendent of elections who is appointed by the Governor for a five-year term. The superintendent has responsibility for the county election machinery, investigates problems and complaints relating to registration of voters and violations of election laws, issues subpoenas, and is deemed by statute to be the commissioner of registration for the county. In counties with no superintendent of elections, these functions are performed by the Board of Elections.

- **Board of Taxation**—The Board of Taxation is made up of either three or five members appointed by the Governor. The Board has responsibility for supervising all municipal assessors, apportioning county tax requirements among municipalities based on equalized valuations, ordering municipal reassessments, and hearing appeals from taxpayers and taxing districts. The Board is paid by the State Treasurer.

- **County Tax Administrator**—The statutes further provide that the Board of Taxation appoints a professional county tax administrator with the responsibility for administrative matters. The county tax administrator is paid by the county governing body.

- **The Court System**—Through constitutional amendments in 1978 and 1983, all remaining county judges were transferred to the State Superior Court. The county courts, district courts and juvenile and domestic relations courts become part of the Law and Chancery Divisions of the Superior Court. All judges are State employees appointed by the Governor with the advice and consent of the Senate. The support staff for the judges are hired by the assignment judge and paid by the counties. Supervision of the court at the county level is through the assignment judge for each of the state's 15 vicinages which are made up of one or more counties. Although the judicial system is basically a State system, the 21 counties pay two-thirds of its costs including payment of support staff, while receiving less than half of the system's non-tax revenues. Appropriations are made by the county governing

body following budget requests from the assignment judge. The County and Municipal Government Study Commission has recently recommended the complete transfer of administrative and financing responsibility for the court system to the State.

- **Probation**—The Probation Department serves the judicial system with responsibility for providing information to assist the judge in decision-making, for supervising persons convicted of an offense and given a suspended sentence; and for collecting alimony and child support as ordered by the court. The chief probation officer is appointed by the assignment judge.

- **Jury Commission**—Two residents from each county are appointed by the Supreme Court to serve as that county's Jury Commissioners. The two Commissioners, one Democrat and the other Republican have the responsibility of drawing up jury lists and helping in selection of the grand and petit juries. A study commission appointed by the Supreme Court has recently recommended that this commission be eliminated and its functions be transferred to the courts.

- **Prosecutor**—The principal law enforcement officer of the county is the prosecutor, a constitutional officer, who is appointed by the Governor and who has exclusive jurisdiction for prosecution of criminal activity within the county. The prosecutor has responsibility for the investigation, apprehension, processing and disposition of criminal cases as well as organizing and overseeing special units to investigate and prosecute narcotics, gambling and organized crime cases. The prosecutor's office also serves as advisor to municipal police departments and coordinates their activities when necessary.

- **County Superintendent of Schools**—The Commissioner of Education appoints a county superintendent of schools for a term of three years for each county. The county superintendent is an employee of the State with responsibility for overseeing and monitoring the local school districts within the county. The superintendent represents the commissioner and acts as a conduit to the local districts. The state hires and pays for the professional staff in the office. The superintendent has oversight of the management, curriculum, textbooks and conditions of school facilities in the local school districts, as well as serving on various county boards of education. The Board of Freeholders supplies the superintendent with support staff, supplies and office space.

- **Agricultural Extension**—Staff for the Agricultural Extension Service are appointed by the Extension Service at Rutgers University and funded jointly by the county, the federal government and Rutgers University. National policy has created a similar intergovernmental framework throughout the county. The objectives of the program are to improve the efficiency of food production and marketing and to support 4-H programs and philosophy.

- **Soil Conservation District**—Single-county or multi-county soil conservation districts cover the entire State. They have members appointed by the State Soil Conservation Committee. The districts prepare soil and water conservation plans for farmers and control soil erosion from new develop-

ments. Their revenues come from the federal, State and county governments and from fees. The county provides their office space.

ELECTED OFFICIALS

Independently elected administrative officials operate with tremendous autonomy within county government. They make their own personnel and policy decisions. The elected officials account for 6% of county expenditures and 5% of county personnel (and a much larger share of each in counties where the sheriff operates the jail) and are largely outside of the direct control of the central governing body. Accountability to the voters is accomplished, however, through direct election by the people.

- **Sheriff**—The sheriff is elected for a three-year term. The office is composed of uniformed law enforcement officers with responsibilities for courtroom security, service of civil and criminal process, transportation of prisoners and serving legal papers and other functions. The sheriff also operates the jail in eleven counties. The history of the sheriff as an independent county official goes back to the middle ages in England. The sheriff, like the prosecutor, is a public safety official and a constitutional officer.

- **County Clerk**—The county clerk is a constitutional official elected for a five-year term and has responsibilities related to the judiciary, the elections process and the recording of various official documents. Specific duties include case processing and maintaining records for the Superior Court; and processing applications for passports and naturalization for the United States Naturalization Court. Responsibilities for elections include filing candidate petitions, maintaining lists of registered voters, and certifying election results to the New Jersey Secretary of State. The clerk maintains records of mortgages, deeds, liens, maps and other information on property in the sixteen counties without a register of deeds. The clerk's position and judicial responsibilities are provided for in the State Constitution while other responsibilities derive from statute.

- **Surrogate**—The surrogate is a constitutional official elected for a five-year term and considered part of the judicial system with responsibility for probating wills and supervising minors' trust accounts. The surrogate is the last judge remaining in county government. Prior to constitutional amendments in 1978 and 1983 more than 100 county judges served the State.

- **Register of Deeds**—Counties with populations exceeding 250,000 may choose through referendum to elect a register of deeds. This option has been chosen by five counties (Camden, Essex, Hudson, Passaic and Union). The register assumes responsibilities previously carried out by the county clerk including maintaining records of mortgages, deeds, liens, maps and other information on county property. Under the Optional County Charter Law the register of deeds function may be placed within a county department.

EDUCATION BOARDS

By statute, the county college, vocational school and special services school district are relatively independent of the Board of Freeholders. The budget for these institutions is developed by the educational trustees and approved by the individual Boards of School Estimate which consists of three freeholder members (or the county executive and two freeholders) with two representatives from the Board of Trustees of either the county college, the vocational school or the special services school district. Each of the three Boards of School Estimates determines a budget for adoption by the Board of Freeholders. Expenditures for educational institutions account for 11% of counties' operational budget, whereas these institutions employ 25% of all county employees.

This arrangement allows the Board of Freeholders control over funding but leaves policy and administration under the control of an independent educational board. The tradition of independent policy direction is consistent with the general approach to education prevalent in the United States and at the municipal and State levels in New Jersey.

- **County Colleges**—The Boards of Chosen Freeholders in nineteen counties have established institutions offering two-year community college services. There are seventeen community colleges and two county college commissions. Each county college is governed by an eleven-member Board of Trustees consisting of ten appointed members and the county superintendent of schools. The freeholder director or county executive with the advice and consent of the Freeholder Board, appoints eight of the members, while the State Board of Higher Education appoints two members. A Community College Commission has one less appointed member than the Board of Trustees and provides college educational services to by contracting with established colleges. Three sources serve to fund the County Colleges and Commissions: state appropriations, county appropriations and tuition.

- **County Vocational Schools**—County vocational schools have been established in twenty New Jersey counties. These schools offer vocational-technical training and apprenticeships to high school and adult students in preparation for a career and/or various state licensing examinations. The vocational schools work closely with the local school districts and offer shared-time and full-time courses. Night classes are held for adult training. County vocational schools are governed by a Board of Education which includes the county superintendent of schools and from four to seven persons appointed by the director of the Board of Freeholders or the chief executive officer in charter counties. Vocational schools are funded by the county and the state and by tuition (in three counties).

- **Special Services School Districts**—A County Special Services School District works in conjunction with the local school districts to provide programs and facilities to the county's handicapped children. The District is under the direction of a County Special Services District Board of Education which includes the county superintendent of schools and six persons appointed by the director of the Board of Chosen Freeholders. Financial support

for the County District is provided by regular education funds from the local school district and from the State and additional funds appropriated by the Board of Freeholders. Four counties (Bergen, Burlington, Cape May and Mercer) have established a Special Services School District.

INDEPENDENT AUTHORITIES

Authorities are relatively new entities for county government and combine the benefits of the public and private sectors. Enabling legislation authorizes counties to create authorities if they so choose. The arguments used for the creation of authorities usually include the creation of a businesslike entity, which will construct and operate the needed facilities through the use of service charges. Creation of an authority allows use of flexible debt financing methods normally not permitted to governmental entities. Authorities have done a good job of constructing and operating a variety of diverse facilities for county government.

- **County Utilities Authorities**—County Utilities Authorities are authorized to plan, acquire, construct, operate and finance sewerage, solid waste, water supply and electric generating facilities. The authorities are financed by federal and State aid and service charges imposed by themselves. For most purposes they are independent units of government, separate and distinct from the counties that created them. Sixteen counties have utilities authorities. Two counties (Bergen and Warren) have more than one utilities authority. The Middlesex Authority serves two adjacent counties. Most provide sewerage services; others provide solid waste facilities or water supply programs.

- **County Improvement Authorities**—Improvement Authorities have been created in eight counties with five-member boards appointed by the Board of Freeholders. They may provide: government buildings, convention halls, mass transit facilities, parking lots or ports, airports, combined government-private buildings, redevelopment projects, solid waste facilities, tourist facilities and housing. County Improvement Authorities undertake projects which may not be self financing and the Board of Freeholders may provide a portion of an authority's budget.

- **Other County Authorities**—Other authorities have been created for financing pollution control (eleven) and housing (four). Pollution Control Financing Authorities do not own or operate facilities but lend money to the private sector at lower interest rates. Two counties (Burlington and Cape May) have also created bridge commissions which sell bonds, charges fees and generally operate as authorities. Atlantic County also has a Transportation Authority which was created by special legislation.

COUNTY AGENCIES

A wide number of county agencies are directly under the control of the governing body. Unlike the other structural units of county government, the governing body directly manages these offices and maintains control over

policy, personnel and budget decisions. The governing body hires the staff of these agencies who report to the governing body either directly or through other administrative personnel. These are the only offices in county government which report directly to the Board of Freeholders in non-charter counties. County agencies account for 40% of county expenditures and 26% of county employees.

The following broad categories are used to describe the varied functions performed by county agencies:

1. **Administration and Finance**—County government provides administrative support and general management for county agencies as well as many of the autonomous and semi-autonomous units already described. These support services include the range of financial services including budgeting, accounting, auditing and purchasing. Other general administrative support services include personnel, data processing and insurance. In addition, the county counsel's office provides legal advice and represents the various offices of county government in court. The office of the county adjuster determines the extent of the financial responsibility for families of county residents in State or county institutions.
2. **Public Works and Buildings**—The county has responsibility for the county road system as well as all bridges which are not part of State highways. This includes engineering, construction and maintenance responsibilities. The county also has responsibility for providing and maintaining office space for many county offices including the independent units.
3. **Human Services**—The county role in human services has expanded significantly. The county governing body appoints and provides staff for the County Human Services Advisory Councils. The Councils make recommendations to the Department of Human Services concerning expenditure of State and federal funds and various county planning issues. There are also county Offices on Aging which plan and provide services for the elderly. An alcoholism planner has responsibility for planning and managing programs for the prevention and treatment of alcoholism in cooperation with the Division on Alcoholism of the Department of Health. In the area of mental health programs, counties provide direct services, fund community programs and plan in conjunction with the State Division of Mental Health and Hospitals.
4. **Public Safety**—Each county must provide corrections facilities for adults and juveniles and placements for juveniles in need of supervision. Counties are also required to administer a weights and measures program which checks the accuracy of local retailers. Nineteen counties also provide a consumer affairs office to respond to citizen complaints. Four counties have a county police department; many other counties have park police and utilize security personnel to protect their buildings; and all counties are required to have a medical examiner.

5. **Health**—There are fourteen county Health Departments with six departments serving the entire county and eight providing services only to some municipalities. Most counties also provide an environmental health program in conjunction with the State Department of Environmental Protection. Programs for alcohol, drugs and other areas may also be provided through county agencies.
6. **Planning**—In addition to the county planning functions under the direction of the County Planning Board, the county provides transportation planning. There has been a significant growth in the county's responsibility for solid waste planning since counties now have the responsibility for disposal with municipalities responsible for collection. Counties are also involved in economic development and housing issues.

ISSUES: MOVEMENT TO PRINCIPAL DEPARTMENTS

The organizational structure of traditional non-charter government consists of a series of separate units each reporting to a freeholder committee as indicated in Figure 4 which shows 28 units reporting to freeholder committees. The size and structure of the individual units vary widely; an office may consist of one person who plans transportation services for the handicapped or a public works department composed of over 200 employees. Each freeholder committee usually combines related functions (human services, administration, finance). Sometimes the organization of committees is designed to solidify the power of the majority party on the Board. There may be few built-in organizational ties among units reporting to the same committee.

As a modification of these procedures, some non-charter and all charter counties have moved to bring together similar functions into principal departments where individual offices report to a single full-time professional department head. The 20 to 40 small offices of county government are reorganized into between six and eight principal departments. The individual small offices are then part of a principal department. The use of this organizational structure results in increased central control over policy, greater coordination of related functions and more oversight over operations. The department head is responsible for integration and oversight over related functions and reports to either the freeholder committee or the county administrator.

Following this model, a number of the non-charter counties, Camden and Bergen (before moving to charter government) Counties, have implemented a unified system and Morris County has partially implemented such a departmental structure. In addition to reorganizing the traditional county offices, the optional charter counties have developed departmental systems which have included functions previously performed by various autonomous boards such as the Mosquito Control Commission, the Parks Commission, and the Welfare Board, as authorized by the Optional Charter Statute. An organizational chart for charter counties is presented in Figure 5.

There are a variety of different approaches to an organizational plan. Final choices of an appropriate scheme depend on specific county priorities,

FIGURE 4
AN EXAMPLE OF THE ORGANIZATION OF
NON-CHARTER GOVERNMENT

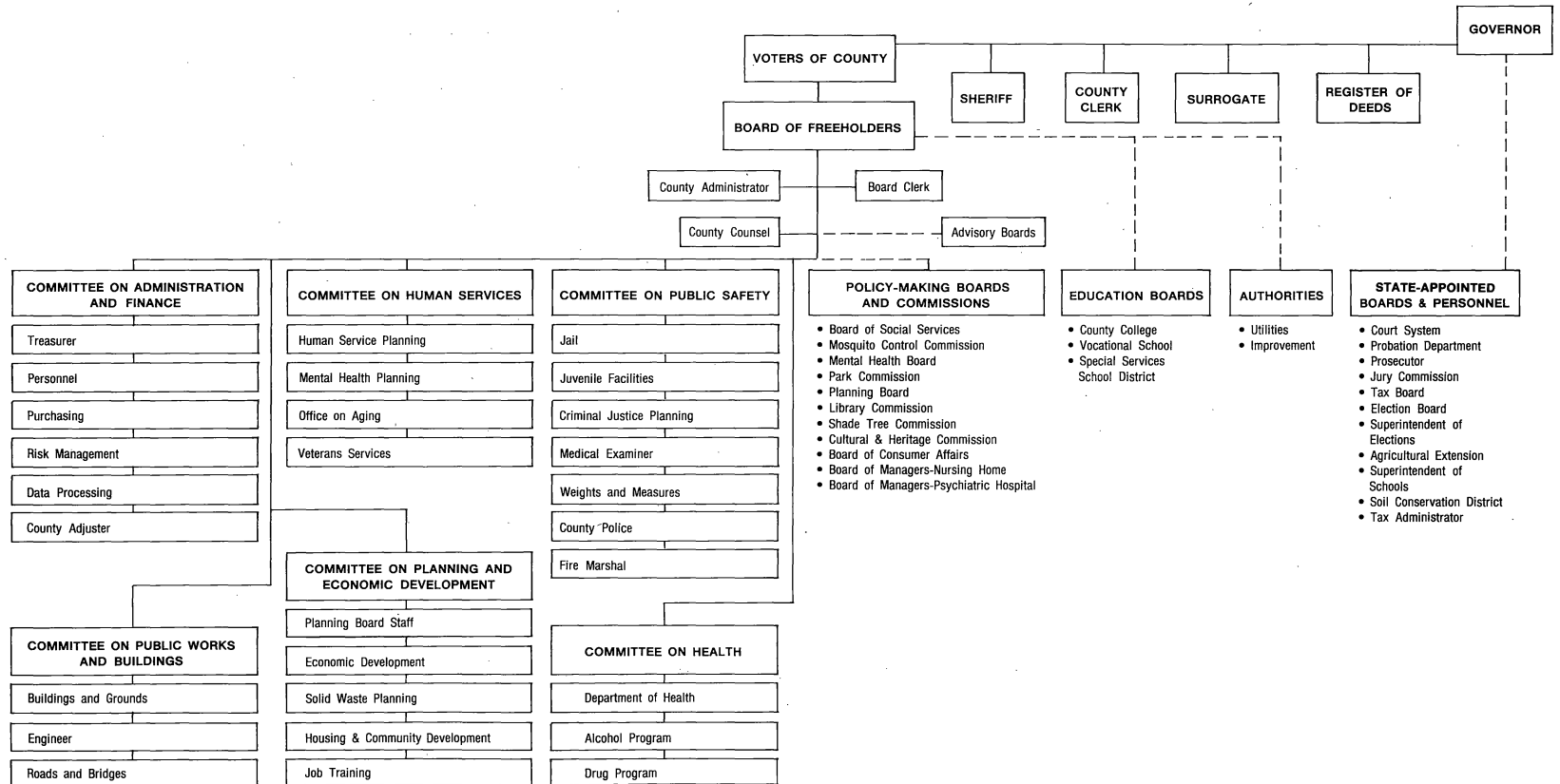
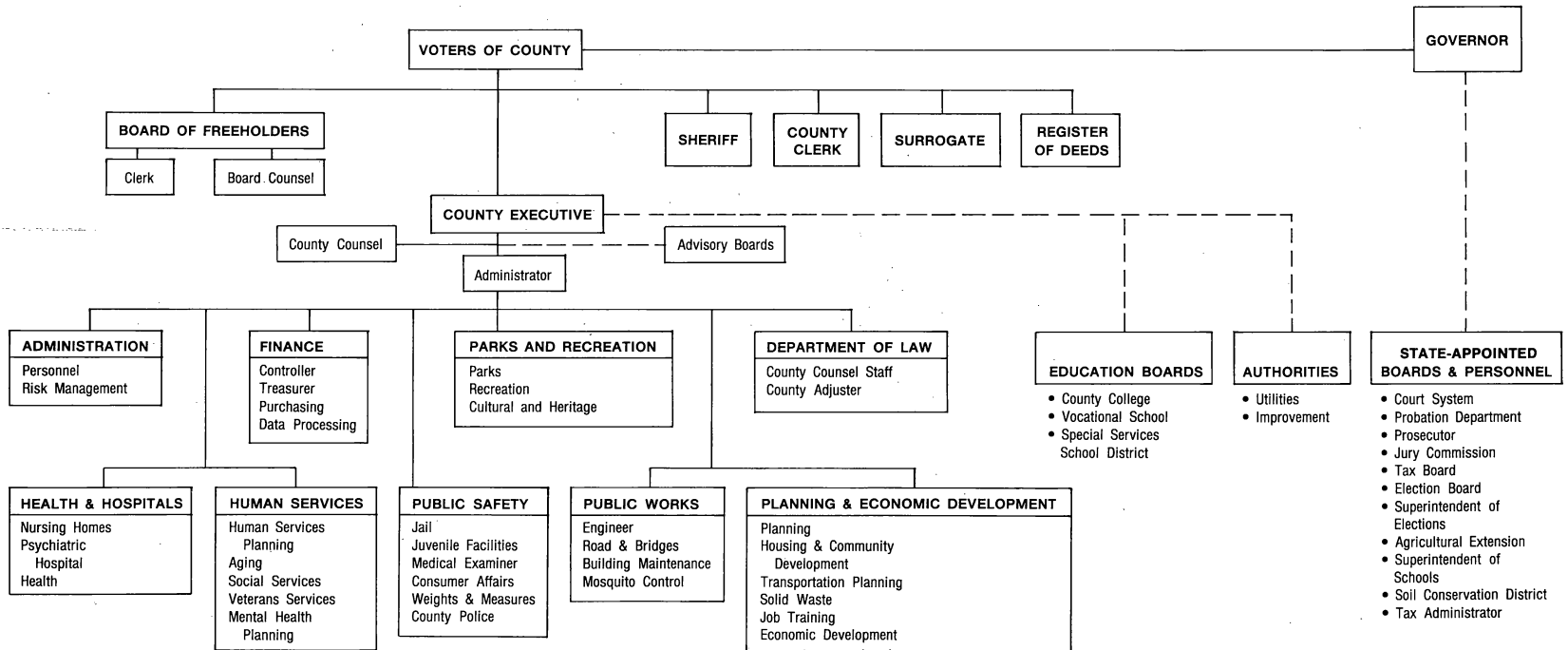


FIGURE 5
AN EXAMPLE OF THE ORGANIZATION OF OPTIONAL
CHARTER COUNTY GOVERNMENT—COUNTY EXECUTIVE



the existing system, and the particular administrative staff already in place. Organizational charts frequently include the following units as separate departments:

- Administration
- Finance
- Public Works
- Public Safety
- Human Services
- Health and Hospitals
- Planning and Economic Development

There is some variation in the placement of general administrative services within the organizational structure. Administrative support services may be part of a finance department, a separate department, or one of a series of offices reporting to the administrator. A separate budget office reporting to the chief administrative officer is established in approximately half the nine counties with clear departmental organization. For the other counties, the budget function is part of a finance department. Various residential facilities (nursing homes, psychiatric hospitals, medical hospitals, jails and youth correctional facilities) may be combined with other functions (health, human services, public safety) or report separately to the chief administrator.

The trend towards combining related functions is also apparent among non-charter counties which have not adopted a complete departmental organizational structure. Various administrative support functions including personnel may report to the administrator. The budget office may report to the administrator or be part of a finance office including the treasurer and purchasing functions.

A partial move towards a departmental organization may include several other types of departments. A planning department may combine staff of the Planning Board and related functions such as economic development, transportation planning, community development and housing. Due to Department of Health regulations, when a county is directly providing health services, these functions are organized into a Health Department supervised by a health officer. These functions can be extensive including environmental health, communicable disease, maternal and child health and chronic health programs. The mental health and human services planning functions required by the State Department of Human Services are sometimes combined in one office and may be related to other human services functions such as drug and alcohol programs or the aging office.

The Commission believes that an organizational structure consisting of principal departments is an efficient way of managing governmental operations and that this model should be adopted by all counties. With various small independent offices unified into one larger department, it is possible to recognize the relationships among related programs and more effectively

administer those systems. Staff expertise and information can be more effectively used across various program lines. For example, planning for mental health could be integrated with other human services; a range of support services such as data processing, printing and motor vehicles can be combined; related financial functions including purchasing, auditing and accounting could be integrated. This will result in more efficient program management by eliminating duplication and streamlining procedures.

Using a principal department structure, policy issues and major decisions can also be presented to the Freeholder Board in a more rational manner. A county perspective on human services, growth management and other issues would be developed as an integrated system and policy questions would be presented to the Freeholder Board within this context. Therefore, major policy decisions would be made within an appropriate context which includes an analysis of county needs, goals and resources.

Recommendation III-1: Non-charter county governments should analyze their own structure in order to integrate their multiple existing agencies into principal departments composed of related functions. This will allow greater coordination among units and facilitate clear policy development and execution.

ISSUES: THE AUTONOMOUS AGENCIES

Due largely to restrictive State statute, the central governing body has limited control over the operations of autonomous county government agencies. As indicated in Figure 3, direct management controls extend only to the agencies reporting to the governing body. The autonomous agencies account for 74% of the counties' employees and 60% of its budget. The independent powers of the State-appointed boards and officials, the independently elected officials, the school boards, the county-appointed boards, and the authorities place severe limitations on the ability of the governing body to make overall policy for the county and to manage its operations. Charter counties have extended managerial controls to the policy boards which are now usually part of direct operations.

The history of New Jersey county government includes two major models relating to the addition of new responsibilities for counties. Early in the history of county government the freeholders were responsible for county functions such as roads. Other State statutes dating to the earliest years required the creation of autonomous agencies to provide government services such as welfare boards. The use of autonomous boards is based on a philosophy which mistrusts the electoral political system and requires the separation of elected officials and some policy decisions. These two models continue to be utilized during the tremendous expansion of county government which has occurred during the last twenty years.

State government structure has also been characterized by both operating models. Chapter I indicated that the State government previously contained more than 100 independent and dependent State agencies and that the State evaluated its organization and through the 1947 Constitution

drastically reduced the number and autonomy of these agencies. At that time the State merged approximately 100 agencies into 14 principal departments of State government.

The Optional County Charter Law has authorized the consolidation of many agencies which cannot be merged by general statutory law. However, this power is not available to non-charter counties. Other county level agencies are suspended somewhere between county and State government and cannot be integrated into county government or State government without statutory changes. This approach fragments power and does not allow development of a unified system.

Due to historical statutory requirements, county government still consists of many agencies, for which the State or State-appointed officers make major personnel and policy decisions. The judiciary, probation and the prosecutor's office are the major examples of this. Initially, the court was a locally oriented system. In fact, judges were the original governing officials for counties prior to the development of the freeholder system. There has been gradual movement towards a State controlled judicial system. This process has intensified since the 1982 report by the Supreme Court Committee on Efficiency in the Operation of the Courts in New Jersey and the 1983 constitutional amendment transferring the remaining county judges to the State. Management systems and controls have been strengthened and streamlined in order to create an efficient and centralized court system. However, the change to direct State control and financing has not followed. This has left county governments with the responsibility for negotiating budgets and providing support services for a system which is basically determined by the State constitution, State legislation and the State judiciary. In a 1984 report, the County and Municipal Government Study Commission recommended that complete responsibility for supervising and financing all court related functions be transferred from county government to the State.

The constitutional and elected officers also operate with autonomy. The county clerk, sheriff, surrogate, register of deeds and prosecutor are the appointing authorities for their departments. They negotiate budgets for their offices with the county governing body but have enormous latitude in establishing their own internal practices and hiring their staff. In many cases, policy decisions are limited since basic policy is established at the State level by legislation or judicial rule. The county is implementing State legislation or policy. However, other programs especially under the sheriff and prosecutor have been developed in response to local need.

The semi-autonomous Boards and Commissions appointed by county government such as Parks, Welfare and Mosquito Control also have great autonomy with regard to policy making and management. These commissions hire their own staff and define their own policies. However, county government makes appointments to these boards and uses this method to control policy and management decisions. In addition, budgets are negotiated with the county governing body which has ultimate financial control. There is less control over the Welfare Board budget due to the funds required by federal

programs which places some expenditures outside the State and county control. As will be discussed in Chapter IV, counties which have chosen the optional charter form of government have the authority to merge these independent boards into county departments. Charter counties have used this power extensively. This provides for much better integration of county programs with overlapping goals.

There are other Boards which vary in terms of substantive area and method of functioning. Many are purely advisory to the Freeholder Board or to administrative staff and some are advisory to State government agencies, such as the Mental Health Board. The Planning Board has certain approval powers. These groups bring a variety of citizens together to determine local needs and desires. They also allow citizens with specific technical expertise to contribute to county government decision-making.

A number of boards and councils provide advice to the Board of Freeholders and to county administrative units which plan and administer the programs. This use of advisory boards and councils provides a positive mechanism for utilizing the expertise and good will of concerned citizens. County governments have a good record of mobilizing volunteers and technical experts from a variety of areas to contribute to the overall operation of county government through the many independent and advisory boards, commissions and councils.

As previously noted, county government provides administrative and financial support for many of the autonomous and semi-autonomous units. In general, county government purchases the supplies, writes the payroll checks, builds and maintains buildings and provides auditing and accounting services. There are some exceptions to this, however, when an autonomous agency is given a fixed appropriation and maintains its own support systems. The central support units report directly to the Freeholder Board or central administrator.

Table 4 presents the aggregate 1983 expenditures for the various units of county government which have been described herein. It is apparent that major expenditures are made for State-appointed and elected officials, education boards, and policy-making boards. This means that 60% of the county expenditures are outside the direct control of the Freeholder Board. A combination of State-appointed, elected, and county-appointed officials manage the expenditure of these funds. The central governing body is directly responsible for only 40% of the expenditures for county offices. This pattern is repeated in an example of county staffing patterns presented in Table 5. The central governing body manages only 26% of the staff employed within county government. Other personnel are employed by a combination of appointed and elected officials. Significant numbers of county personnel do not report to the central governing body.

The Commission believes that changes in statute are necessary to give the governing body increased control over the various autonomous and quasi-autonomous agencies which comprise county government. The combination of State mandated programs and structures, the constitutional officers, and

TABLE 4
COUNTY EXPENDITURES—1983¹

| | | | |
|--|--------------------------|------------------------|-------------|
| STATUTORY BOARDS | | \$377,586,409 | 30% |
| Board of Social Services | \$193,505,780 | | |
| Mosquito Control Commission | 8,144,579 | | |
| Parks and Recreation | 55,725,139 | | |
| Library Board | 18,310,079 ² | | |
| Nursing Homes and Psychiatric Hospitals | 101,900,832 | | |
| STATE-APPOINTED OFFICIALS | | 169,575,627 | 13% |
| Board of Elections/ Superintendent of Elections | 16,590,916 | | |
| Board of Taxation | 2,398,682 | | |
| Court System | 47,480,033 | | |
| Probation | 39,279,752 | | |
| Jury Commission | 3,988,620 | | |
| Prosecutor | 54,081,967 | | |
| Superintendent of Schools | 2,541,709 | | |
| Agricultural Extension | 3,213,948 | | |
| ELECTED OFFICIALS | | 70,930,084 | 6% |
| Sheriff | 42,038,576 ³ | | |
| County Clerk | 24,043,261 | | |
| Surrogate | 4,848,247 | | |
| EDUCATION BOARDS | | 135,935,237 | 11% |
| County Colleges | 68,122,217 | | |
| Vocational Schools | 67,813,020 | | |
| COUNTY AGENCIES⁴ | | 500,248,756 | 40% |
| Administration and Finance | 160,948,965 ⁵ | | |
| Public Works and Buildings | 131,588,307 | | |
| Human Services | 31,078,878 | | |
| Public Safety | 102,212,602 | | |
| Health | 64,670,397 | | |
| Planning and Economic Development | 9,749,607 | | |
| TOTAL | | \$1,254,276,113 | 100% |

¹ The data was developed using gross expenditures from the annual report of the Division of Local Government Services. County expenditures also include \$14,341,581 for payments to the Division of Youth and Family Services, \$110,947,150 for payments to State institutions, \$59,822,320 for county aid to hospitals and \$365,555,890 for debt service, pensions, fringe benefits and other statutory expenditures.

² Revenues from the county library tax (\$16,453,217) are included here.

³ This figure does not include expenditures by the sheriff for the jails in eleven counties because of the limitations of the data.

⁴ The numerous county agencies are grouped into functional categories in this chart.

⁵ Expenditures for Administration and Finance include indirect costs and administrative costs for autonomous units.

semi-autonomous units has resulted in a county government system without the decision-making authority and management controls usually associated with a government or private company. However, as pressures on county government increase and the general sophistication of the county improves, it becomes important to move towards a more integrated approach to government structure. A series of recommendations are proposed which allow a rational organization of government where decision-making and funding are combined in one government unit. Implementation of these recommendations will result in a more clear definition of county and State powers and responsibilities.

A substantial strengthening of the organizational structure of non-charter counties would be affected by allowing counties to make independent boards and commissions part of the departmental structure. This is an extension of powers currently held by counties operating under the Optional Charter Law and would include the Board of Social Services, Mosquito Control Commission, Parks Board, Shade Tree Commission, Library Commission and the Planning Board. When administrative units are managed by the Freeholder Board, integration with other government units is easier. The Board of Freeholders has more direct control over policy making and operations. The Commission recommendation does not include nursing homes, psychiatric hospitals or other hospitals due to the sensitive nature of care for the incapacitated.

Recommendation III-2: Legislation should be enacted which will allow non-charter county Freeholder Boards to make independent boards part of direct county government operations while maintaining the board in an advisory capacity. This law would authorize non-charter counties to merge autonomous agencies into county departments in the same manner as charter counties do and would cover all boards and commissions appointed by the Board of Freeholders except the Boards of Managers responsible for nursing homes, psychiatric hospitals and other hospitals. Such a statute would be permissive and would authorize the Board of Freeholders to retain or recreate autonomous agencies if it chooses.

The county governing body should be given power over the various autonomous and semi-autonomous units which are part of county government when the responsibilities of these agencies overlap. Under these circumstances, the county governing body would be given the power to mediate disputes and make final determinations about the assignment of responsibilities and personnel.

Recommendation III-3: Legislation should be enacted giving the county governing body power over independent boards, State-appointed officials and constitutional officers when their responsibilities overlap with each other or with any county government unit.

County governments should also have the power to make independent boards, commissions and constitutional officers adhere to the budgetary and administrative procedures which are used for regular county departments. This will allow a strengthening of the powers of the central government to

TABLE 5
STAFFING PATTERNS FOR A HYPOTHETICAL NON-CHARTER COUNTY¹

| | Employees by Agency | Employees by Type of Agency | Percentage of all Employees |
|--|------------------------|-----------------------------------|-----------------------------------|
| STATUTORY BOARDS | | 741 | 30% |
| Boards of Social Services | 250 | | |
| Mosquito Control Commission | 21 | | |
| Parks and Recreation | 79 | | |
| Library Commission | 72 | | |
| Nursing Home | 319 | | |
| STATE-APPOINTED OFFICIALS | | 347 | 14% |
| Board of Elections/ Superintendent of Elections | 26 | | |
| Board of Taxation | 4 | | |
| Court System | 81 | | |
| Probation | 110 | | |
| Jury Commission | 5 | | |
| Prosecutor | 101 | | |
| Superintendent of Schools | 9 | | |
| Agricultural Extension | 10 | | |
| ELECTED OFFICIALS | | 124 | 5% |
| Sheriff | 63 | | |
| County Clerk | 53 | | |
| Surrogate | 8 | | |
| EDUCATION BOARDS | | 620 | 25% |
| County Colleges | 415 | | |
| Vocational Schools | 205 | | |
| COUNTY AGENCIES | | 648 | 26% |
| Administration and Finance | | | |
| Administration | 33 | | |
| Purchasing | 15 | | |
| Treasurer | 26 | | |
| County Counsel | 14 | | |
| County Adjuster | 2 | | |
| Board Clerk | 5 | | |
| Public Works and Buildings | | | |
| Highways | 141 | | |
| Buildings and Grounds | 41 | | |
| County Engineer | 30 | | |
| Human Services | | | |
| Human Services Planning | 2 | | |
| Mental Health Planning | 2 | | |
| Aging | 33 | | |
| Veterans | 1 | | |
| Public Safety | | | |
| Consumer Affairs | 6 | | |
| Fire Marshal | 2 | | |
| Jail | 120 | | |
| Juvenile Detention | 35 | | |
| Medical Examiner | 4 | | |
| Weights and Measures | 3 | | |
| Planning and Economic Development | | | |
| Community Development | 18 | | |
| Economic Development | 6 | | |
| Planning Board Staff | 10 | | |
| Solid Waste Planning | 2 | | |
| Health Department | 97 | | |
| TOTAL | 2,480 | 2,480 | 100% |

¹These hypothetical staffing patterns are based on an actual county, with modifications made to make it more consistent with general patterns. In this example, jails are operated by the Freeholder Board and the parks are operated by a Park Commission.

manage county operations through development and monitoring of the budget. Charter counties currently have this power.

Recommendation III-4: Legislation should be enacted stating that non-charter county governments may require that independent boards, commissions and constitutional officers follow the same budgetary and administrative procedures as regular county departments.

The Commission feels that additional research and evaluation are necessary to sort out the relationship between county government and State government in certain areas. All county programs managed by State-appointed officials should be evaluated to determine whether the function should be placed at the State or county level of government. This includes the courts, Jury Commission, Probation Department, county tax administrator, Board of Taxation, Board of Elections, supervisor of elections, superintendent of schools, agricultural agent, Soil Conservation District and the prosecutor. The resulting system would unify policy-making, management and financing responsibilities at either the State or county level of government.

The division of responsibilities across State, county and municipal levels, as well as the specific organizational structures used, is partially a result of tradition. These decisions should be reevaluated in order to determine the appropriate roles for each level of government. For example, responsibilities for tax assessment and election functions are spread across the State, county and municipal levels of government. These programs should be evaluated in terms of program goals, governmental roles and the appropriate match between these two parameters.

Recommendation III-5: The Commission recommends that each State-appointed board or officer of county government be assigned to the appropriate governmental level for those programs. Each of these officials should be appointed, supervised and financed by either the State government or the county governing body.

A redefinition of the structure and role of the county clerk would be an initial step in clarification of State and county functions. The Commission has previously recommended that the State assume complete programmatic and financial control of the State judicial system including the judicial activities of the county clerk. As a related organizational change, consideration should be given to authorizing counties to create an appointed recording clerk position including all the non-judicial responsibilities of the county clerk. The appointment would be for a period of five years. In the sixteen counties without an existing elected register of deeds, the county clerk would have the option of accepting the first appointment to the job. In the other five counties, the existing register of deeds would have the option of accepting the first appointment to the job; if the existing register of deeds declined appointment, the existing clerk would have the option of accepting the appointment. In any case, the first appointee would serve a full five-year term.

This proposal will help sort out the historical accident that provided that the county clerk has constitutional responsibilities to the judicial branch of

State government and statutory responsibilities to the executive branch of county government.

As previously discussed, a 1984 Commission report, *County Mandates: The State Judicial System and Human Services*, recommended a significant restructuring of State-county relationships. The Commission recommended that the State assume complete responsibility for financing and administering the court system and related offices. Counties currently fund the State court system with negligible control over management decisions or budgets. The recommendation is consistent with the recommendations of the 1982 Supreme Court Committee on Efficiency in the Operation of the Courts.

Recommendation III-6: The Commission reaffirms its previous recommendation that the State assume complete programmatic and financial control of the State judicial system.

Another method of enhancing the capacity of county governments to manage is to develop an administrative code which will specify the organization of county government and the responsibilities of the freeholder committees, freeholder director, county administrator, department heads and autonomous agencies. The charter counties have adopted administrative codes.

The process of developing an administrative code forces county government to examine its own operations and should provide the opportunity for significant improvements in the system. Implementation of any of the other recommendations for changes in the role of the county administrator and creation of a departmental structure should probably be connected to a re-examination of the relationship between existing county government agencies.

Recommendation III-7: Each non-charter county should review government operations and develop an administrative code which will specify the responsibilities of each unit, the relationships among the units and the responsibilities of major administrators. Legislation should be enacted which explicitly authorizes use of this option for non-charter counties.

The general goal of these Commission recommendations is to strengthen the structure and operations of county government. Emphasis is on increasing the potential of the Board of Freeholders to plan and manage government operations. These structural changes (the organization of multiple agencies into principal departments, the consolidation of autonomous agencies into county departments, the extension of budget procedures to independent units, the assignment of State appointed officials to county government or State government, and the use of an administrative code) should increase the ability of county government to make rational policy choices and manage an efficient system.

These recommended organizational changes require a loosening of unnecessary State controls on the operations and organization of county government. They would provide all counties with powers similar to those exercised

by municipal governments and optional charter counties. All recommendations are permissive and designed to permit the concerned local officials to deal with their internal organization and regional problems as they choose.

CHAPTER IV

OPTIONAL CHARTER GOVERNMENT: HISTORY AND CURRENT STATUS

The 1972 Optional County Charter Law (NJSA 40:41A-1 *et seq.*) was developed as a result of extensive analytical work done by the County and Municipal Government Study Commission in the late 1960s culminating in the 1969 report entitled *County Government: Challenge and Change*. The charter act allows the citizens to choose a form of optional charter government through referendum. This act had a greater impact on the organization of county government than did any other legislation in the last century. It authorizes the integration of autonomous agencies into departments of county government and requires the use of an administrative code which is the method charter counties have used to reduce more than forty departments and agencies to between six and eight large departments containing similar functions. It greatly improves the visibility of county government by separating the executive and legislative functions and by providing for a chief executive official with major responsibility for managing government operations. These managerial reforms are combined with increased opportunity for citizen input into government through initiative and referendum.

The Optional County Charter Law is modeled on the charter law for municipalities known as the Faulkner Act (NJSA 40:69A-1 *et seq.*). Many of the recommendations contained in earlier chapters of this report are designed to authorize non-charter counties to implement similar management improvements, while maintaining the Board of Freeholders as the chief executive and legislative entity in county government.

In the fourteen years since the Optional County Charter Law was passed, six counties have chosen to change their form of government as indicated in Table 6. These counties serve 41% of the State's population. Five counties (Atlantic, Bergen, Essex, Hudson, Mercer) have chosen the County Executive Plan and one county (Union) chose the County Manager Plan as shown in Figure 6. In Bergen County the first county executive will be elected in November 1986 based on a 1985 referendum to change the form of government. For both Bergen and Essex Counties, acceptance of charter government followed earlier rejections of the change. In addition, three county charter study commissions (Passaic, Middlesex and Camden) recommended change and were defeated at the polls and one charter study commission referendum (Burlington) was rejected by the voters.

This chapter presents a broad overview of charter change through reviewing the specific changes and options allowed under charter and the impact of charter change on government operations. Discussion centers around

TABLE 6**COUNTY CONSIDERATION OF THE CHANGE TO OPTIONAL CHARTER****A. COUNTIES WHICH ADOPTED NEW FORM AFTER CHARTER STUDY & REFERENDUM**

| County | Plan | Date of Change | Number | Freeholders | | |
|---------------------|-----------|----------------|--------|-------------|----------|----------|
| | | | | Terms | At Large | District |
| Atlantic | Executive | Nov. 1975 | 9 | Staggered | 4 | 5 |
| Bergen ¹ | Executive | Nov. 1986 | 7 | Staggered | 7 | - |
| Hudson | Executive | Nov. 1975 | 9 | Concurrent | - | 9 |
| Mercer | Executive | Nov. 1975 | 7 | Staggered | 7 | - |
| Union | Manager | Nov. 1975 | 9 | Staggered | 9 | - |

B. COUNTY WHICH ADOPTED NEW FORM AFTER DIRECT PETITION & REFERENDUM

| County | Plan | Date of Change | Number | Freeholders | | |
|--------|-----------|----------------|--------|-------------|----------|-----------|
| | | | | Terms | At Large | Districts |
| Essex | Executive | Nov. 1978 | 9 | Concurrent | 4 | 5 |

C. CHARTER COMMISSION STUDY—UNSUCCESSFUL REFERENDUM VOTE ON FORM RECOMMENDED

| County | Date of Referendum | Plan Recommended |
|-----------|--------------------|------------------|
| Bergen | Nov. 1974 | Executive |
| Camden | Nov. 1974 | Manager |
| Middlesex | Nov. 1974 | Manager |
| Passaic | Nov. 1974 | Board President |

D. CHARTER COMMISSION STUDY—RECOMMENDATION TO RETAIN EXISTING FORM

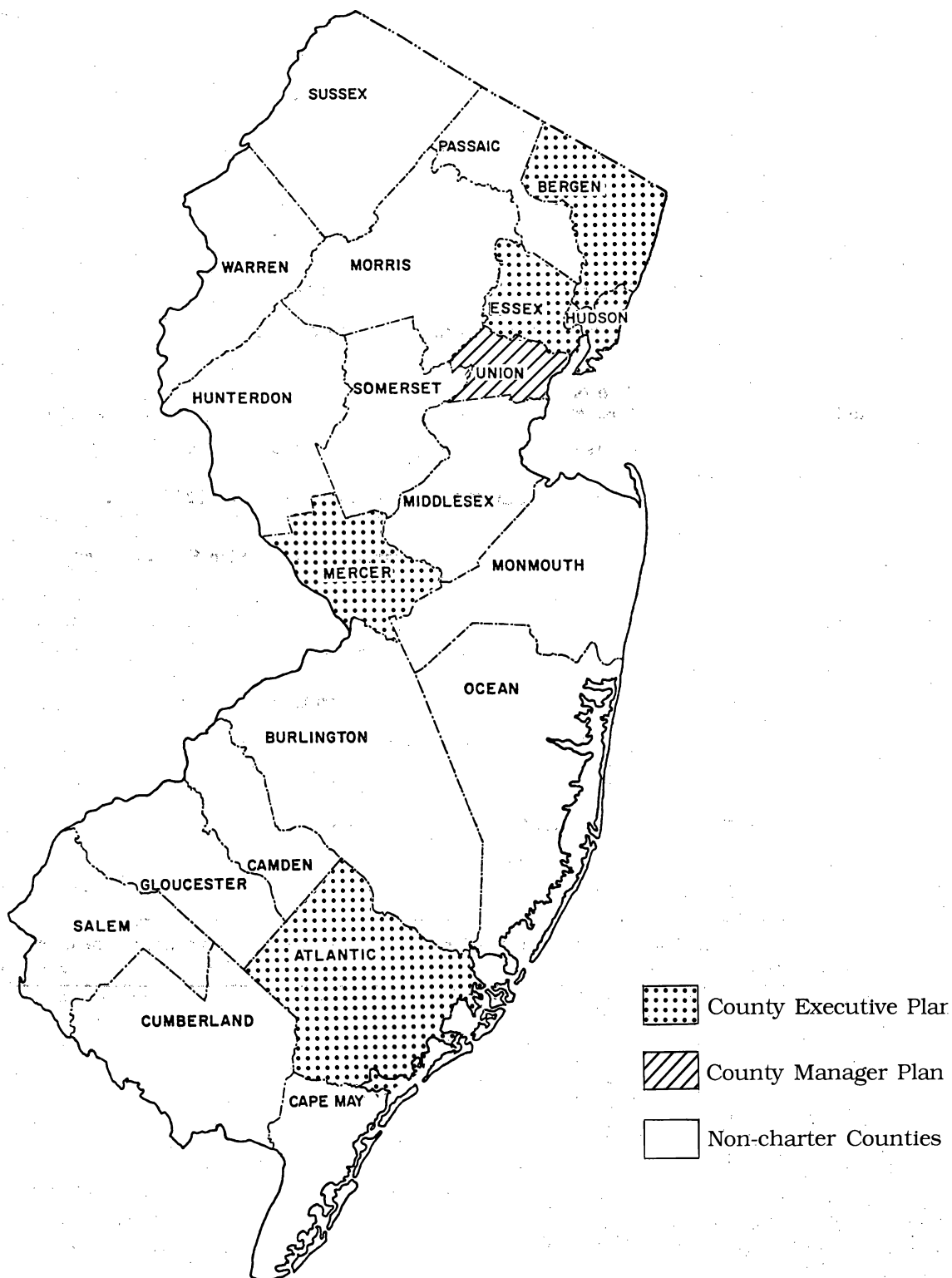
| County | Date of Report |
|--------|----------------|
| Essex | 1974 |

E. CHARTER COMMISSION STUDY—REFERENDUM REJECTED

| County | Date of Referendum |
|------------|--------------------|
| Burlington | Nov. 1975 |

¹Voters chose optional charter government in November 1985 and a county executive will be elected in November 1986.

FIGURE 6
OPTIONAL COUNTY CHARTER PLANS



the current statutory and managerial issues in the developing charter governments as well as questions of future development.

THE STATUTE AND JUDICIAL INTERPRETATION

The major impact of the Optional Charter Law is twofold:

- (1) the legislative and executive functions of charter government are separated; and
- (2) every charter government is authorized to absorb the offices operated by autonomous boards into departments of county government.

Under the charter law, the basic responsibilities of the Freeholder Board are legislative and investigative. The Board has responsibility for passing ordinances and resolutions appropriate for governing the county. The major responsibilities include adoption of the operating and capital budgets and approval of all contracts. The Board also adopts the administrative code for the county which defines the major units of government and the responsibilities of these units.

The executive branch of government has responsibility for supervision of all county departments. The specific locus of this power as well as some appointment and veto powers varies based on the type of charter plan chosen and will be defined in subsequent sections. But the executive branch in all charter plans has responsibility for preparation of the budget, for presentation of the budget to the Freeholder Board and for negotiation of all contracts subject to Board approval.

The statute further specifies the responsibility of the legislative and executive branches of government (NJSA 40:41A-86):

It is the intent of this act to confer on the board general legislative and such investigative powers as are germane to the exercise of its legislative powers, but to retain in the head of the executive branch full control over the county administration and over the administration of county services provided for in this act.

The same section of the statute limits the access of Freeholder Board members to county employees except through the head of the executive branch. However, the Freeholder Board may require the head of the executive branch to appear before it and provide reports or any information necessary for its inquiry. In discussing the administrative code which defines the organization of county government, the statute further protects the powers of the head of the executive branch (NJSA 40:41A-125c):

c. Nothing in the administrative code shall change the duties or powers of county officers whose existence is mandated by the Constitution or shall diminish the duties, responsibilities or powers of any elected or appointed head of the executive branch or chief assistant thereto or county administrator.

The second major effect of charter government is to allow county government the right to reorganize governmental agencies while still providing the required services (NJSA 40:41A-26):

Nothing in this act shall be construed to prevent counties from abolishing or consolidating agencies the existence of which has heretofore been mandated by State statute providing that such abolition or consolidation shall not alter the obligation of the county to continue providing the services previously provided by such abolished or consolidated agency.

The intent of this act is to enable a county that has adopted a charter pursuant to this act to cause any duty that has been mandated to it by the Legislature to be performed in the most efficient and expeditious manner, and absent a clear legislative declaration to the contrary, without regard to organizational, structural or personnel provisions contained in the legislation mandating such duty.

When describing the county's general powers, the statute restates the county's right to reorganize (NJSA 40:41A-30):

The grant of powers under this act is intended to be as broad as is consistent with the Constitution of New Jersey and with general law relating to local government. The grant of powers shall be construed as liberally as possible in regard to the county's right to reorganize its own form of government, to reorganize its structure and to alter or abolish its agencies, subject to the general mandate of performing services, whether they be performed by the agency previously established or by a new agency or another department of county government.

Subsequent 1981 amendments of the statute specified the units which could not be reorganized as part of county government including the following: the Board of Taxation, Board of Elections, Jury Commission, county clerk, surrogate, sheriff and educational institutions established pursuant to Title 18A of the New Jersey statutes (NJSA 40:41A-30).

This amendment came after a series of judicial decisions which affirmed the county's right to incorporate the activities of quasi-independent Boards such as the Social Welfare Board, Mosquito Control Commission and Parks Commission into departments of county government. However, other judicial decisions held that the county colleges and vocational schools were separate units of government and not covered in the strong reorganization powers of charter governments. Court decisions have also limited the county executive's control over staff in the Probation Department, prosecutor's office and Board of Elections. These offices were viewed as separate units of government and, therefore, outside of the direct control of county government. These decisions are reviewed in a 1981 Commission publication, *Handbook of Legal References for the Optional Charter Law*.

The ability of optional charter county government to absorb outside agencies and officers could be summarized as follows:

1. The constitutional officers or the prosecutor, sheriff, county clerk and surrogate must remain outside the integrated county government created by use of the Optional County Charter Law. The Board of Elections, Board of Taxation, Jury Commission, County College, Vocational School, superintendent of schools and Special Services School Districts are also excluded by statute from incorporation into county government.
2. As mentioned, the Board of Social Services, the Mosquito Control Commission and the Park Commission have been incorporated into

county government by charter change. The Cultural and Heritage Commission, Board of Consumer Affairs, Shade Tree Commission and others have also been merged into a unified departmental structure by operation of the County Charter Law. In many cases optional charter counties preserve an advisory council for each of these functions to continue active citizen involvement.

3. The law allows, but no charter county has chosen to use it, the incorporation of the elected register of deeds and the Library Commission into departments of county government. These agencies are county agencies, rather than separate units of government and, therefore, fall within the county's reorganization powers.

FOUR CHARTER PLANS

Four separate options are possible under the Optional Charter Law. These plans differ in their definition of the head of the executive branch of government and could be summarized as follows:

1. The **County Executive Plan** (NJSA 40:41A-31 *et seq.*) creates a chief elected official with strong administrative, appointive and budget powers. The executive also has veto powers over legislation. The Freeholder Board has advice and consent over the appointment of department heads and members of independent commissions in addition to legislative, investigatory and budget approval powers.
2. The **County Manager Plan** (NJSA 40:41A-45 *et seq.*) provides for Freeholder Board appointment of a manager who has complete executive powers. The manager does not have veto power over legislation but does not require Board approval for department head appointments. The Board appoints members of independent commissions and the county counsel.
3. The **County Supervisor Plan** (NJSA 40:41A-59 *et seq.*) is a combination of the County Executive and County Manager Plans. The supervisor is elected by the voters but shares executive responsibility with a county administrator appointed by the Board of Freeholders. The administrator reports to the supervisor on administrative matters but reports to the Board on financial matters.
4. The **Board President Plan** (NJSA 40:41A-72 *et seq.*) is similar to the county manager form of government but dilutes the powers of the manager. The Board of Freeholders elects a president from among its members for a one-year term and appoints an administrator. The administrator is responsible to the board president for government operations but reports to the Board on budget matters. The board president appoints boards and commissions and has the executive power of the county which is exercised through the administrator.

The County Executive and Manager Plans unite all executive powers in a single strong executive. In the County Executive Plan, the chief executive is elected and, therefore, has a clear political base. The county manager is

appointed by the Freeholder Board and serves at their pleasure and is, therefore, more directly responsive to their policies.

Both the Supervisor and Board President Plans provide less decisive executive roles while still providing a separation of executive and legislative responsibilities. In these forms, administrative responsibility is split between an administrator and either an elected supervisor or appointed freeholder board president. The administrator in both forms is appointed by the Freeholder Board and reports to them on budget issues. The administrator also appoints department heads and is responsible for county government operations. The supervisor and the board president supervise the administrative work of the administrator and are generally similar in other powers and duties. Both officials preside at Board meetings; however, the president votes on all issues while the supervisor votes only in case of a tie. The supervisor also has veto power.

IMPACT ON OPERATIONS

The change to optional charter government has a major impact on the organization and operation of county government. The major changes are: (1) the emergence of a clear central leader and manager; and (2) the development of a unified departmental structure. These two outcomes are related and have produced a strong centralized operational system.

In non-charter county government, decision making is vested in the Freeholder Board who collectively make policy and manage administrative units and in the autonomous boards and commissions. There is no one person who is responsible for major policy initiatives and daily management. In contrast, optional charter government has resulted in the emergence of a clear leader. There is recognition by the public, by the county political system, by county employees and by State and municipal governments that this official is responsible for government operations.

The emergence of an effective managerial force has strengthened central control over semi-autonomous units by establishing a strong departmental structure. Charter governments have chosen to consolidate almost all the semi-autonomous boards and commissions which they are authorized to absorb. Only three independent Boards remain in the five charter counties: the Board of Social Services in Mercer and Union Counties and the Parks Commission in Mercer County. The separate administrative units, including units which were previously autonomous, have been organized into departments composed of related functions. Support functions such as personnel and purchasing have been strengthened. Growth of a budget planning capacity has been particularly apparent. The budget process has become a powerful tool for making policy decisions and establishing spending controls. These counties have also developed an expanded capacity for analytical studies as support for policy and managerial decisions.

The net impact of these changes has been a stronger management system. There is a clear leader who has responsibility and control over the system.

This management structure has explicit reporting lines and accountability. The separate pieces of the system are more closely tied together. Policy making appears to proceed in a more rational manner. Since similar administrative units are organized in a departmental structure, overlapping responsibilities can be handled more effectively.

Since all government operations are part of one system, an emphasis on management initiatives and central services follows automatically. The individual offices use central personnel and purchasing services. All offices now have access to centralized legal services through the county counsel's office. Charter governments also seem to have increased awareness of their relationship with State departments and the Legislature and an enhanced ability to deal with the State executive and legislative leaders.

In short, the county governments formed under the Optional Charter Law look more like a traditional private sector organization and more like the State government or a Faulkner Act municipality. Policy making and decision making are approached systematically; functions are organized into departmental units; and support functions are centralized. This growth in central management capacity has also occurred in non-charter county governments but the changes for optional charter governments are more pronounced.

ISSUES: LEGISLATIVE-EXECUTIVE RELATIONSHIP

Adoption of an optional charter radically changes the traditional power structure in county government. The statutory separation of executive and legislative power has changed the way decisions are made and the procedures for conducting operations. Under traditional county government, the Board of Freeholders had a broad range of powers. Statute vests county government powers in the Board of Freeholders for non-charter counties and they exercise that power in any way that they choose consistent with other State statutes (NJSA 40:20-1). Certainly, they make the major policy and financial decisions; they also often choose to involve themselves in administering the daily operation of county government including personnel decisions. These powers are considerably changed under the Optional County Charter Law where the freeholder role is limited to legislative functions, including the oversight of executive agencies. The major duties of the Freeholder Board are approval of the budget and the administrative code. They also have responsibility for approving contracts and approving the selection of department heads (in the County Executive Plan) and making appointments to boards and commissions (in the County Manager Plan).

Increased recognition of this new role would result from allowing freeholders in optional charter counties to be known as county legislators. The change to a new structure and division of duties and responsibilities in charter county government should be recognized by allowing charter counties to change the name of the Freeholder Board.

Recommendation IV-1: Legislation should be enacted which authorizes charter counties to change the name of the Board of Freeholders to the County Legislature by ordinance.

The balance of power is further altered by the emergence of a strong leadership force in the county executive or manager for whom the operation of county government is a full-time responsibility. The Optional Charter Law is written to establish strong executive power and heads of the executive branch have frequently used the maximum power allowed by law to define their authority.

It is easy to argue that this tension between legislative and executive branches is part of the normal tension between these two branches of government. It is apparent that relations between the Governor and State Legislature are not always harmonious nor are the relations between a strong mayor and the council in a Faulkner Act municipality. While not ideal, this separation of powers and system of checks and balances is viewed as an effective governmental structure and is the form of government most familiar to the American public. While the separation of powers is the same, county and State governments differ in several significant ways. The powers of the State Legislature and Freeholder Board are legislation and oversight including approval of the budget. The main powers of the Governor and county executive are executive and administrative. But the structure of the legislative/executive relationships is very different at the State and county levels. The legislative powers at the State level are extensive in contrast with the limited legislative powers of county government. County government is primarily a management system with less opportunity for policy development and legislation. For instance, the use of the "police power" to provide for "health, safety and welfare" is used extensively in municipal ordinances and State legislation, but is seldom used by Freeholder Boards.

The size of State government operations relative to county government operations also gives the State Legislature greater strength in comparison to the Freeholder Board. Since the size of the State budget is large, and the Governor needs legislative approval for many actions, the possibility for negotiations and trade-offs is great. In comparison, county governments are smaller and are heavily weighted with mandated programs, fixed costs and existing programs. This allows less flexibility and opportunity for negotiation between the two branches.

Despite the comparative limitation of Freeholder Boards in terms of both legislative and strategic powers, there are clear opportunities for the Board to influence county government operations. The Freeholder Board is designed to legislate for the county and serves as a check on executive operations. Their elected status makes them accountable to the public.

In order to implement their legislative powers, the Board of Freeholders in charter counties should increase their use of effective information gathering techniques. The separation of legislative and executive powers under optional charter government is a new system for county government. According to the 1969 Commission report, the major role of the Board of Freeholders under the Optional Charter Law was to be policymaking and legislation. However, there are questions about how these powers are carried out. The powers and strategies used by the executive branch are relatively clear. Freeholder

Boards must develop specific techniques to operationalize their policy-making role including the following:

1. **Use of *ad hoc* committees.** Charter statute allows the Freeholder Board to form an *ad hoc* committee which would study any issue and report back to the Board (NJSA 40:41A-86). This technique can be used to obtain information from the public as well as the executive branch. Concentrated effort can be put into understanding a specific program or issue. A resolution on policy or an ordinance can be formed based on this analysis. The *ad hoc* committee can also be used to facilitate discussion between the Board of Freeholders and the executive branch around issues that are of interest to both parties.
2. **Access to information.** In order to formulate positions, the Freeholder Board needs access to information on issues and programs. This information may come from the executive or from staff or consultants reporting directly to the Board of Freeholders. Whenever possible, it is probably reasonable to use executive branch staff to minimize the need for additional expenditures. However, specialized support may be necessary in dealing with specific technical issues. In order to adequately monitor the budget process, specific financial expertise might be necessary. The formulation of *ad hoc* committee reports and policy recommendations may require professional assistance in the form of a legislative counsel or program consultant.

Freeholders may hire staff and consultants with some restrictions. A Civil Service Commission decision limits the number of unclassified positions available for the Board of Freeholders in charter counties. Funding for staff or consultants may be included in the budget which is the province of the Freeholder Board with contracts negotiated by the executive branch.

Assumption of additional costs required for staff consultants must obviously be approached with caution. The system could serve to increase tension between the legislative and executive branches since opposing views will be supported by staff expertise on both sides. The need for independent technical assistance may be more necessary under the County Executive Plan where the executive is expected to exert more influence in policy making than is the county manager.

Freeholder Boards in charter counties already use *ad hoc* committees and staff/consultants to some extent. But increased use of these techniques would support their ability to generate questions, to formulate an independent perspective of county needs and to impact on county operations through their legislatively defined powers. Appropriate resources are necessary to support the separation of powers established by the charter law.

Recommendation IV-2: The Commission recommends that Freeholder Boards under the Optional County Charter Law implement their power to budget, to exercise legislative oversight and to amend the administrative code through increased use of methods designed to support policy development.

The budget process is also a source of conflict between the executive and legislative branches. The county executive prepares the budget for approval by the Freeholder Board. The Board makes any additions or deletions which it feels are appropriate. The county executive must then approve or disapprove the budget presented by the Board with no opportunity to line item veto appropriations which have been added to the budget by the freeholders. This is an important budget power which is utilized every year by the Governor at the State level. It exerts a real influence by spending reductions and, therefore, decreased taxation. Conversely, control over the annual budget is the most important power the Board of Freeholders retains in the County Executive Plan.

Another aspect of the executive-legislative relationship in charter counties is the difference in the term of office between the executive and legislative branches of county government. County executives are elected for four-year terms. The members of the Board of Freeholders are elected for three-year terms which is the traditional term of office for New Jersey freeholders. In the Commission interviews, however, a number of persons expressed the opinion that the freeholders should be elected to a four-year term of office to provide consistency within charter governments between the executive and legislative branches of those governments.

The Commission has recommended that non-charter counties have the option of changing the freeholder term of office from three years to four years with staggered elections occurring at two-year intervals (Recommendation II-2). A similar recommendation is made here for charter counties. Counties operating under the Optional Charter Law should be allowed to choose through referendum a four-year term of office for freeholders. Under this proposal, part of the freeholder board would be elected every two years or all members would be elected every four years. Currently, charter counties elect freeholders for three years with concurrent or staggered terms of office. Essex and Hudson Counties have chosen to elect all their freeholders in the same year as indicated in Table 6. The Commission recommends maintaining the existing options but adding a new option authorizing four-year terms of office for freeholders with all freeholders serving concurrent terms with the county executive or with some freeholders serving staggered terms beginning two years later.

The lengthening of the freeholder term of office and elimination of annual elections would increase the time available to consider county issues without the pressures added by annual elections. It is generally thought that concurrent elections for the chief executive and legislative body encourage members of each political party to coordinate the positions they present to the voters. Concurrent election of the county executive and freeholders should promote the cohesiveness of county government.

Recommendation IV-3: Legislation should be introduced which allows charter counties to choose through referendum a four-year term of office for freeholders. Freeholder elections would be scheduled concurrently with the county executive or part of the Freeholder Board would be elected two years after the executive and remainder of the Board.

ISSUES: THE UNFINISHED AGENDA

Counties operating under the Optional Charter Law have expanded powers to reorganize through absorbing policy-making boards. However, these reorganization powers are limited because they do not extend to constitutional officers and State-appointed boards and officials.

In earlier chapters of this report, the Commission also recommended that each of the county functions managed by State appointed officials should be reevaluated and placed at either the State or county level of government. Each function should be administered and financed as either a county function or a State function. These changes would allow the development of a rational system with unification of decision-making appointments and funding at the same level. The combination of these recommendations and the powers allowed under the Optional Charter Law would allow development of a modern organizational structure for county government.

ISSUES: EXTENSION OF CHARTER GOVERNMENTS

The movement to charter reform has been significant. Using 1983 census projections, 41% of the State's population live in counties which have chosen to use the optional charter form of government. Charter reform has been utilized more often in the counties with higher populations; four of the six counties having more than 500,000 people choosing to utilize the Optional County Charter Law.

While the charter change process has been successful in six counties, the response has not been as strong as might have been anticipated. The Commission's 1969 report, *County Government, Challenge and Change*, made recommendations for change based on the general dissatisfaction with county government operations. That study recommended that all counties evaluate their own government operations and adopt an optional charter.

Therefore, why have only ten out of twenty-one counties considered change and only six counties adopted an optional charter form of government? There appears to be several reasons for this lack of movement. First, county government is not clearly visible to the public at large. Therefore, citizens do not evaluate their county government and consider improvements as might occur for a more visible government. People do not readily identify with county government or with county government programs. Second, the existing political structure does not usually directly support a change to optional charter government. Existing freeholders, members of boards and commissions and other county officials have made the non-charter organizational structure effective and do not want to deal with the temporary disruption which comes with change. They also may perceive that they as individuals will have less influence in a more centralized government form.

A third and related issue concerns the role of the Freeholder Board. As previously discussed, the change to charter government has resulted in a change in the role of the Freeholder Board. In traditional charter government, the Board of Freeholders is responsible for most aspects of county government

including organization, operations, supervision, negotiating contracts and hiring staff. Charter government changes the power relationships and gives the Board of Freeholders a legislative and investigatory role. This restriction has led to some role conflict and a lack of feeling of control over governmental operations. There is frequently conflict between the Board of Freeholders and the county executive or manager in charter counties. This situation has increased the opposition of existing Freeholder Boards and the public to optional charter government.

Nonetheless, the Commission maintains its support for optional charter government. As previously noted, there have been significant changes since the 1969 report which was highly critical of county government. The regional role of county government has grown substantially during this period. Management of non-charter county government has become more organized and centralized. However, the optional charter government provides the best opportunity for county government to develop the strong management system needed to support new complex responsibilities.

Recommendation IV-4: The Commission continues its historic support of the optional charter form of government. The separation of legislative and executive powers combined with increased central management provides the best opportunity for an effective governmental system.

IN CONCLUSION

This report has analyzed the organization of county government today more than ten years after the first four counties began operating as optional charter counties. It finds major changes in the optional charter counties and in the non-charter counties. It finds an increase in services provided to the public by counties.

It also finds, however, a real lack of visibility in counties especially non-charter counties. It finds the existence of forty or fifty independent agencies each supervised by a single part-time freeholder in many counties. Most of all the report finds that the statutes authorizing county government organization are hopelessly outmoded and unnecessarily restrict county government's ability to manage their own affairs in the most expeditious and economical method possible. The counties have done an excellent job in providing expanded and continuing services under an organizational structure which unnecessarily restricts their ability to serve their constituents as they choose. The Commission recommends a series of statutory changes, all on a permissive basis, which will reduce the unnecessary restrictions and place power for regional programs in the hands of the officials elected by voters to handle regional services, the Board of Chosen Freeholders.

FOOTNOTES

¹In this report, the term non-charter counties refers to counties which have not adopted the Optional Charter Law (NJSA 40:41A-1).

²The term "Board of Freeholders" or "Freeholder Board" is generally used in place of the statutory term, "Board of Chosen Freeholders."

³Herbert Sydney Duncombe, *Modern County Government*, Washington, D.C., National Association of Counties, 1977, pp. 129-139.

⁴Harris I. Effross, *County Governing Bodies in New Jersey: Reorganization and Reform of Boards of Chosen Freeholders 1798-1974*, New Brunswick, 1975, pp. 7-28.

⁵Ernest C. Reock, Jr., "Trends in Allocation of Services and Fiscal Responsibilities in New Jersey State and Local Government," *New Jersey Outlook for the Future*, draft report, Office of Management and Budget, New Jersey Department of Treasury, 1985.

⁶*Ronald Zweig vs. Board of Chosen Freeholders, County of Bergen*, New Jersey Superior Court (Law Division), Bergen County, Docket Number L14917-67, unpublished decision, January 31, 1968.

FUTURE PUBLICATIONS OF THE COUNTY AND MUNICIPAL GOVERNMENT STUDY COMMISSION

- Urban Redevelopment in New Jersey
- A Status Report on Solid Waste Management
- Judicial Unification
- An Analysis of the Corrections System
- Independent Boards and Municipal Government
- Building Code Enforcement
- The Municipal Court System
- Services for the Elderly: Current and Future Needs
- The Municipal Welfare System

ABOUT THE COMMISSION

The New Jersey legislature established the County and Municipal Government Study Commission with the charge to "study the structure and functions of county and municipal government ... and to determine their applicability in meeting the present and future needs of the State and its political subdivisions."

To achieve as broad a representation as possible in carrying out this legislative charge, a Commission of fifteen members was created, nine of whom are named by the governor, three of whom are senators named by the president of the senate, and three of whom are assemblymen, named by the speaker of the general assembly. Of the governor's appointments, three are nominees of the New Jersey Association of Counties, three are nominees of the New Jersey State League of Municipalities, and three are from among the citizens of the State.

The Commission's initial report, *Creative Localism: A Prospectus*, recommended a comprehensive and systematic study of the patterns of planning, financing, and performing functions of government. This assessment seeks to develop more effective approaches for service provision among municipal, county, and state governments through statutory amendment and changes in administrative practices and policies.

In light of these goals, the Commission has examined alternative forms of service provision on a larger-than-municipal scale and evaluated current systems for provision of services. This research has led to a series of structural studies dealing with county government, joint services, consolidation, and municipal government forms. The Commission also engages in functional studies that are focused upon the services that local governments provide or should so provide. These functional studies have included examinations of transportation, housing, social services, health, solid waste management, flood control, libraries, and state mandates. In addition, a series of informational periodicals and handbooks are published for the use of officials, administrators, and others interested in New Jersey government.

While the Commission's research efforts are primarily directed toward continuing structural and functional studies, its staff is often asked to assist in the drafting of legislation and regulatory action based upon Commission recommendations. The Commission also serves as a general resource to the legislature, executive agencies, local government officials, and civic organizations, as well as to related activities at the national level.

