

POLICY BRIEF 25

RECONCILING THE GREAT DIVORCE:
THE CITY OF ST. LOUIS REENTERING ST. LOUIS COUNTY

January 2011

Written by:

E. Terrence Jones,
Professor of Political Science,
University of Missouri–St. Louis



**PUBLIC
POLICY
RESEARCH
CENTER**

University of
Missouri - St. Louis

One University Boulevard,
362 Social Sciences Building
St. Louis, Missouri 63121-4499

(314) 516.5273 **TEL**
(314) 516.5268 **FAX**

pprc@umsl.edu **EMAIL**
<http://pprc.umsl.edu> **WEB**

THE ISSUE:

ANY PLAN THAT HAS THE CITY REENTERING THE COUNTY AS ITS 92ND MUNICIPALITY MUST ADDRESS AT LEAST FOUR ISSUES, EACH OF WHICH HAS SEVERAL DEVILS LURKING IN THE DETAILS. BROADLY STATED, THE ISSUES INCLUDE (1) HOW TO COMBINE THE CITY'S EXISTING NONJUDICIAL "COUNTY FUNCTIONS" WITH THEIR COUNTY COUNTERPARTS, (2) WHETHER AND HOW TO MERGE THE CITY'S AND COUNTY'S JUDICIAL FUNCTIONS, (3) WHETHER AND HOW TO COMBINE CERTAIN COUNTY-LIKE FUNCTIONS NOW PERFORMED BY THE CITY'S MUNICIPAL GOVERNMENT WITH COMPARABLE COUNTY OPERATIONS, AND (4) WHETHER TO INCREASE THE NUMBER OF COUNTY COUNCIL DISTRICTS AND, WHATEVER THEIR NUMBER, DRAW THEIR BOUNDARIES.

Background

When the City of St. Louis separated from St. Louis County in 1876, its eye was on a prosperous urban future untroubled by the County's rural rubes and infrastructure needs. As a result, the City forces which had successfully changed the Missouri Constitution in 1875 so that the City could go its own way did not even consider providing any mechanism for reuniting with the County.

By the 1910s, the City realized how shortsighted it had been. The seemingly expansive boundaries established in 1876 now appeared restrictive. The City's initial response in the late 1910s and early 1920s was to seek statutory authority from the Missouri General Assembly to annex County territory. Those attempts failed but City interests fueled an initiative process in 1924 to amend the Constitution to allow the City to reenter the County and, if it did so, annex land there. The amendment passed statewide and also had majority support in both the City and County.

The constitutional section about City-County relations (Article VI, Section 30) was subsequently revised in 1945 and 1966 but the reentry option survives as the second of what are now five alternatives: "the people of the City of St. Louis and the people of the County of St. Louis shall have power...(2) to extend the territorial boundaries of the County so as to embrace the territory within the City and to reorganize and consolidate the county governments of the City and County, and adjust their relations as thus united, and thereafter the City may extend its limits in the manner provided by law for

other cities.”

The conversation about City and County governmental reunification ebbs and flows but, over the past decade, this second option has received the most attention. It is generally seen as the most feasible since, at least superficially, it does the least damage to the City’s autonomy and the County’s authority. This essay outlines the process required to develop and adopt a reentry plan and highlights several of the major issues involved

The Process

The process would start with separate City and County initiative petitions from registered voters asking that a board of freeholders be appointed. The signatures must total at least three percent of the vote cast in the preceding gubernatorial election in each jurisdiction. Using the 2008 election as a guide, that would be almost five thousand valid registered voter signatures in the City and slightly over sixteen thousand in the County.

Once the City and County election boards certify that the signature requirements have been met, the City of St. Louis Mayor and the St. Louis County Executive, with the approval of a majority of their respective legislative bodies (City Board of Aldermen and County Council), have just ten days to appoint nine members each from their jurisdiction. Within each delegation, no more than five can “be members of or affiliated with same political party,” an ambiguous provision since Missouri does not have party registration. Prior to 1989, these members also needed be literally freeholders, that is owners of real property, but the Supreme Court ruled in *Quinn v. Millsap* (491 U.S. 95) that violated the equal protection clause in the U.S. Constitution’s Fourteenth Amendment. As a consequence, the body is now more properly called a board of electors.

OVER THE PAST DECADE, THIS SECOND OPTION OF ALLOWING THE CITY TO REENTER THE COUNTY HAS RECEIVED THE MOST ATTENTION. IT IS GENERALLY SEEN AS THE MOST FEASIBLE AND LEAST DAMAGING TO THE CITY’S AUTONOMY AND THE COUNTY’S AUTHORITY.

Within the thirty days after the petitions have been certified, the Governor of Missouri must appoint a nineteenth member who must be a Missouri resident from outside the City and County, a provision included to break any possible tie vote between City and County members. After the board membership is complete, the Constitution explicitly dictates that “at ten o’clock on the second Monday...the board shall meet in the chamber of the Board of Aldermen in the City Hall of the City and shall proceed with the discharge of their duties.” They have one year from their appointment to produce a plan. The board has the authority to pursue any of the five options in Article VI including the expansive fifth alternative for “any other plan for the partial or complete government of all or any part of the City and County.” Neither the initiative petitions nor the appointing authorities can limit the board’s agenda to only one alternative such as reentry. The board members are not compensated but are authorized to incur expenses including hiring a staff. The City and the County split these expenses evenly.

If a majority of the board agrees on a plan, it then must be approved by concurrent majorities of City and County voters. The board determines the date of the election but it must be at least seventy days after its approves a plan and, in an effort to remove the decision from partisan politics, cannot be within seventy days of “any state or county primary or general election day in the City or the County.” The plan itself would contain instructions about the dates for implementing its various provisions.

The Issues

Any plan that has the City reentering the County as its 92nd municipality must address at least four issues, each of which has several devils lurking in the details. Broadly stated, the issues include (1) how to combine the City's existing non-judicial "county functions" with their County counterparts, (2) whether and how to merge the City's and County's judicial functions, (3) whether and how to combine certain county-like functions now performed by the City's municipal government with comparable County operations, and (4) whether to increase the number of County Council districts and, whatever their number, draw their boundaries. In addition, the plan might consider a fifth issue: whether and how to modify existing special districts (e.g., Metropolitan Sewer District) and collaborations (e.g., Regional Arts Commission) that are currently joint City-County partnerships.

County Functions (Non-Judicial). Counties perform most of state and local government's nitty-gritty functions like recording deeds and collecting local taxes. Missouri statutes dictate how these offices are organized and governed unless the county has adopted a home rule charter. Those statutes mandate eight offices, five administrative (collector of revenue, license collector, public administrator, recorder of deeds, treasurer) and three judicial (circuit attorney, circuit clerk, sheriff). All are elected to four-year terms and each governs its office independent of any other authority.

Until 2002, the City was compelled to follow the state statutes because it did not have home rule powers over its county functions although since the original divorce in 1876 it has had home rule authority over its municipal activities. A constitutional amendment passed in November 2002 gave the City home rule over how the county offices are structured. In November 2004 however, an attempt to amend the City's charter to have the mayor appoint all five administrative offices and the circuit judges to select the circuit clerk and the sheriff was soundly rejected by the voters. As a result, the City's county functions continue to be organized according to state statutes.

The County adopted a home rule charter in 1950 and, as amended subsequently, has a considerably different approach to performing these duties. With the exception of the circuit attorney (labeled prosecuting attorney in the County) who is elected in both jurisdictions, there is no one-to-one match. For example under the County Charter, the licensing, revenue collection and deed recording functions are all conducted within the Department of Revenue by civil service appointees. Should the City's county duties be transferred to the unit within St. Louis County government currently performing that function or should some other scheme be developed?

Complicating matters are the employment rights of those currently working in the City's county offices. The Missouri Constitution (Article VI, Section 32 (b)) states that "in the event of any ...revision of the charter of the city of St. Louis which shall reorganize any county office and/or transfer any or all of the duties, powers and functions of any county officer, all of the staff of such office shall be afforded the opportunity to become employees of the city of St. Louis with their individual seniority and compensation unaffected and on such other comparable terms and conditions as may be fair and equitable." Would similar positions in the expanded St. Louis County government satisfy this provision or would the City's municipal government be required to add these displaced county office staff to the municipal payroll?

County Functions (Judicial). According to the Missouri Constitution (Article V, Section 15), the state's trial courts (i.e., circuit courts) are organized by county. Smaller counties are combined into contiguous circuits. Larger counties, like the City of St. Louis and St. Louis County, each has their own circuit. These courts handle both felony cases (those persons accused of violating the state's criminal code) and civil matters such as contract disputes and divorces. For the criminal docket, counties are responsible for providing jails for those unable to post bail or deemed too dangerous to release before trial. Counties are also responsible for judicial administrative activities such as serving subpoenas and maintaining court records. In each county, the responsibility for deciding whether to bring criminal charges and, if so, presenting the state's case is lodged in an elective office titled either circuit attorney or prosecuting attorney.

If the City ceases to be a county, would its judicial circuit, corrections facilities, court clerk functions, subpoena processes, and prosecutorial duties be assumed by the County? That would mean eliminating three "county offices" in the City (circuit attorney, circuit clerk, sheriff) and transferring their operations to the County. It would raise issues regarding facilities (e.g., should the County operate one or more jail facilities within the City?) and create a single jury pool where now two exist.

County-Like Functions. The City's municipal government operates other governmental activities typically organized at the county level in Missouri. Three examples are economic development, property assessment, and public health. Once the City ceases to be a county because of reentry, should it cede these to St. Louis County or should it become the only municipality within the County to do them separately?

Looming largest within this category is economic development. In the 1980s, as state and local jurisdictions assumed greater responsibility for attracting, creating, and retaining businesses and jobs, both the City and County established separate economic development agencies (St. Louis Development Corporation and the St. Louis County Economic Council). Each has its own board of directors, creating a one-step-removed relationship with the elected executive. Each has substantial professional staff and multiple responsibilities (e.g., port authority, public financing). At present, these two agencies have a few joint activities (e.g., the enterprise centers for emerging businesses) but, post-reentry, should these two entities be fully merged and, if so, should the surviving agency be part of County government?

Property assessment is normally a county responsibility but the City assessor is a mayoral appointee housed within municipal government. The County assessor has been an appointive position but, starting in 2011, it will become an elected post with an independent office. Should the County Assessor's office do the assessments throughout the expanded County or should it subcontract with the City to have the latter conduct its own assessments?

The City's Department of Health executes public health programs (e.g., immunization) throughout its current jurisdiction. No existing municipality within St. Louis County has its own public health unit. Instead, the County's Department of Health performs these functions in both the incorporated and unincorporated areas. Should the City's Department of Health be eliminated with the County's Department of Health assuming its responsibilities or should the City be the only municipality to have a separate health unit?

County Council Representation. If the City rejoins the County, its residents become County citizens with the

right to participate in the elections for County office holders. Voting for county-wide offices (County executive, County assessor, prosecuting attorney) presents no significant design issues but the matter becomes more intricate for the County Council, the jurisdiction's legislative body.

Currently the Council contains seven districts, each electing one representative for a four-year term. Should the Council remain at seven which, after the district boundaries have been redrawn, would contain almost two hundred thousand residents each? Or should the Council expand, say to nine districts, maintaining about the present resident/representative ratio (about 160,000 to one)? In the redistricting, should one or two of the districts being numerically dominated by City voters or should the City's residents be spread among three or more of the Council seats?

Special Districts and Partnerships. Although past attempts to combine the City and County have all failed, the two jurisdictions have formed numerous joint special districts and partnerships over the last fifty-plus years. Examples include the Metropolitan Sewer District (MSD), the Zoo-Museum District (ZMD), the Convention and Visitors Commission (CVC), and the Regional Arts Commission (RAC).

These entities have been predicated on the City and the County being jurisdictional equals or near-equals. The MSD Board of Trustees, for example, has six members with three each appointed by the City of St. Louis Mayor and the St. Louis County Executive. A similar arrangement exists for ZMD's governance.

Although a board of electors designing a plan for the City reentering the County could and probably would avoid expanding their agenda to include special district governance, one can anticipate that, post-reentry, other municipalities within what would now be a single county would start to question why one of their rank (the City of St. Louis) retains the power to appoint, say, MSD trustees while the remaining 91 cities have no say in the matter. Over time, the City of St. Louis might very well lose some or all of its county-like governance role for these districts and partnerships.

Concluding Comments

A journey culminating in the City of St. Louis reentering St. Louis County will be neither simple nor speedy. The Board of Electors' agenda cannot be limited. It could go in multiple directions. Even if it focuses solely on reentry, the Board faces the likely reality that means the County assuming all or most of the City's county functions and many of its county-like duties. That, in turn, triggers the thorny issues outlined above. That debate will consume significant civic energy and, for upwards of two years, dominate the community agenda.