



Local Government in Texas: Cities Part I

It is a source of much astonishment and of considerable severe comment upon the religious character of our city, that while we have a theater, a courthouse, a jail and even a capital in Houston, we have not a single church.

The Morning Star, a Houston newspaper, June 18, 1839

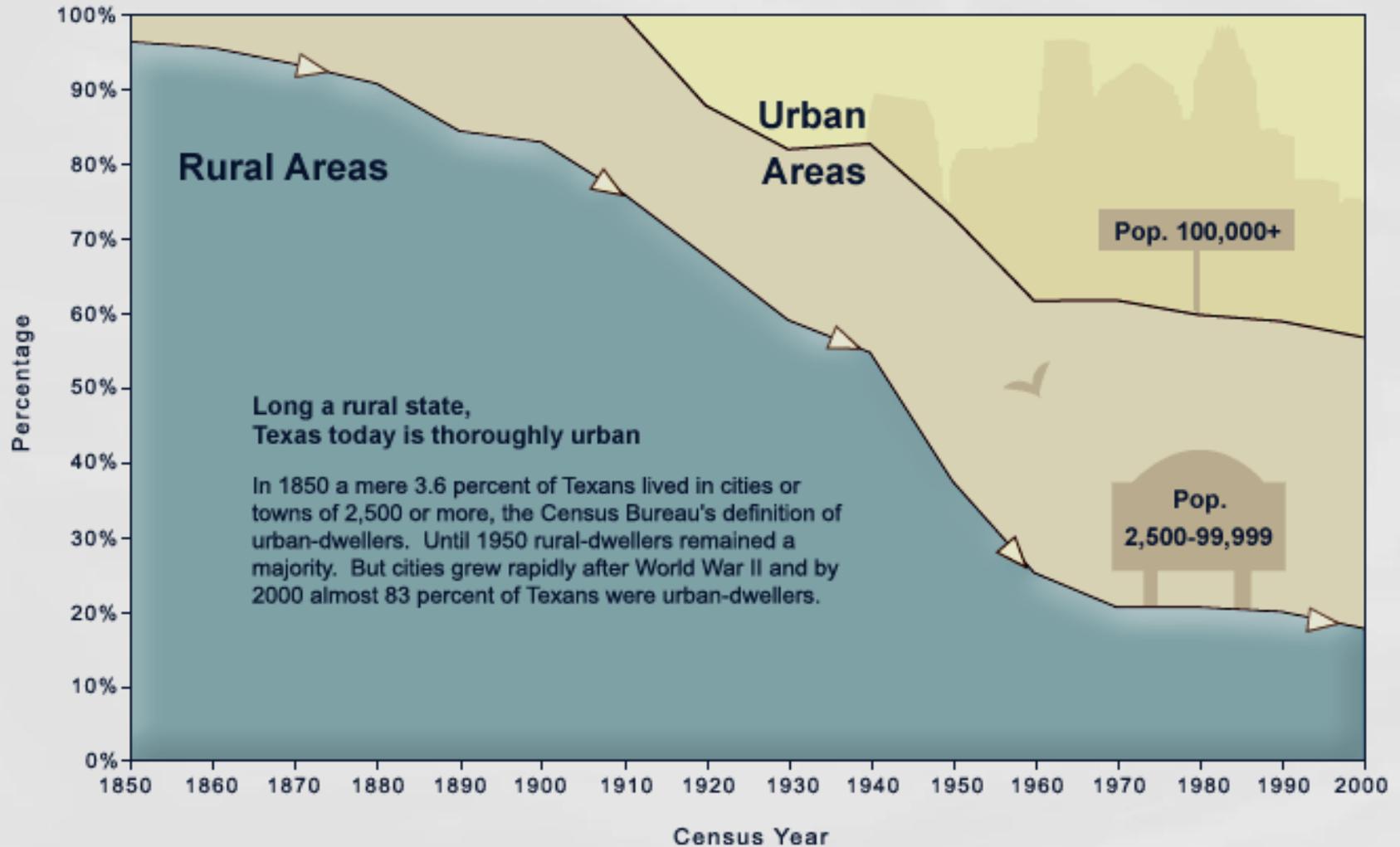
Historical Development of City Government



- Texans live under the jurisdiction of many levels of government.
- From the Middle Ages, cities have been granted charters that have established a measure of autonomy for them.
- We think of Texas as a rural state but **85% of Texans live in towns and cities.**

	Total	County	Municipal	Town or Township	Special Districts	School Districts		
United States	90,056	3,031	19,519	16,364	38,266	12,880		
Texas	5,147	254	1,214	0	2,600	1,079		
cities in Texas	1952	1962	1972	1982	1992	2002	2007	2012
	738	866	981	1,121	1,171	1,196	1,209	1,214

Urbanization in Texas, 1850-2000



The State and Cities



- Texas cities and other units of local government are **subordinate units of state government**, subject to the constitutions and laws of the US and Texas.
- The Texas legislature frequently adopts legislation designed to **define and limit the policymaking authority of city government**.
 - For example, the state prohibits cities from suing the firearms industry.
 - Local government in Texas is also subject to **sunshine laws**: govern public access to governmental records.
 - The legislature passed legislation prohibiting city governments from establishing their own **minimum wage**: the lowest hourly wage than an employer can pay covered workers.

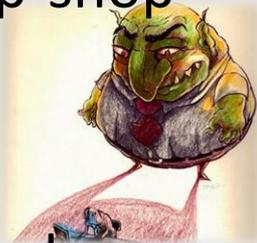
The State and Cities



- The 2017 session featured an almost unprecedented number of bills limiting city control in what the *Houston Chronicle* described as the “emergence of a political movement dedicated to stealing power away from local voters and moving it to Austin, where big money donors have created a one-stop shop to get what they want out of government.”

- **2017 efforts to cripple local control included**

- restricting municipal regulation of tree removal, such as Austin’s heritage tree ordinance
- forcing cities to hold rollback elections on taxes (which would harm city finances)



The State and Cities



- 2017 efforts to cripple local control included
 - placing spending caps on cities and counties
 - voiding non-discrimination ordinances that cover sexual preference
 - overturning local non-discrimination ordinances that protect the LGBT community as well as veterans
 - restricting where transgender Texans can relieve themselves
 - voiding local ordinances barring the use of mobile phones in motor vehicles



The State and Cities



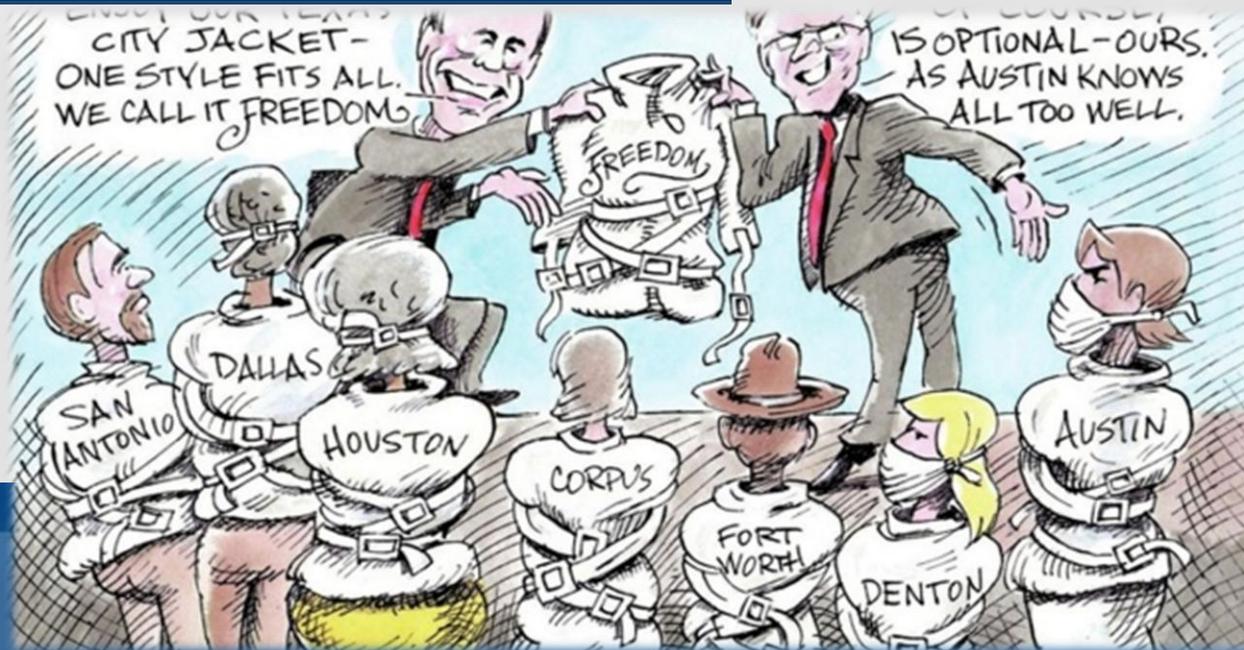
- 2017 efforts to cripple local control included
 - doing away with **sanctuary cities**, including the “show me your papers” provision (punish local law enforcement officials who do not fully cooperate with federal immigration requests, while also giving local law enforcement officers the power to ask people they stop to prove their citizenship)
 - statewide requirements on cities to speed up issuing permits
 - voiding local rules set by cities for ride-hailing companies such as Uber and Lyft



The State and Cities



- At issue is not the specifics involved but whether those decisions should be made by Austin or by the voters who live in those cities.
- The Worst Little Statehouse in Texas
- Abbott's War on Local Government



The State and Cities



- What city governments do have is broad authority to **provide public services, enact regulations and levy taxes.**
- They adopt city **ordinances**: laws enacted by the governing body of a municipality to regulate such matters as building construction, land use practices and driving habits.

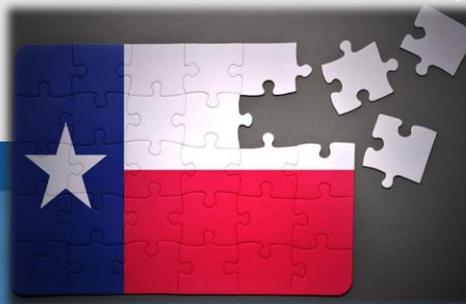


The small north Texas town of Jacksboro, shown here in 1866, was charged with new life when Fort Richardson was established nearby and still thrives.

Legal Status of Texas Cities: Incorporation



- Texas law sets the requirements and procedures under which an unincorporated urban area may become an incorporated municipality.
- **incorporated municipality**: a city under the laws of the state
- Voters of a newly incorporated municipality must approve a city **charter**: the basic law of a city, which defines its powers, responsibilities and organization.
- American states, including Texas, originally chartered cities under general laws in order to avoid disputes over city politics.



Legal Status of Texas Cities: Incorporation



- The inflexibility of the general laws prompted Texas to permit, beginning in 1912, home rule for cities with a population over 5,000.
- There are 1,215 total municipalities in Texas. Of those, 863 are general law cities and 352 are charter/home rule cities.



Substantial houses of stone and plaster with a European flair were built in early settlements such as Castroville. The house shown is that of Henri Castro, founder of the 1840s colony west of San Antonio.

Legal Status of Texas Cities: General Law City



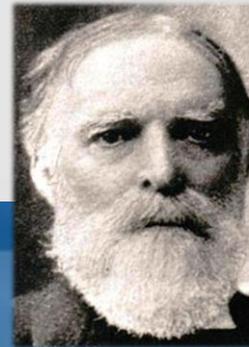
- ...an incorporated municipality that is limited to those governmental structures and powers specifically granted by state law
- municipalities with less than 5,000 inhabitants
- General law cities are bound by **Dillon's rule**: the legal principle that a city can exercise only those powers expressly allowed by state law.
- 72% of all Texas cities are general law cities.

1868: Judge John Dillon ruled that a local government has only certain powers:

Those granted to it by the legislature in **express** words;

Those necessarily or fairly **implied** in or incident to the powers expressly granted;

Those **(inherent powers)** essential to the accomplishment of the governmental unit's objectives and purposes.



Legal Status of Texas Cities: General Law City



- There are 3 **types of general law cities** in Texas.
 - **Type A** contain at least 600 residents and have a strong mayor-council form of government. They may choose between district and at-large elections with plurality winners. Type A cities must have a tax assessor, a treasurer, a city secretary and a city attorney.
 - **Type B** contain 201 to 9,999 residents. They may choose between a strong mayor-council and a weak mayor-council form of government. Normally, Type B cities with a strong mayor form of government have 6 members elected using an at-large system.

Legal Status of Texas Cities: General Law City



- There are 3 types of general law cities in Texas.
 - **Type C** contain 201 to 4,999 residents. Unless otherwise approved by state government, they must have a weak mayor-council form of government.



Legal Status of Texas Cities: Home Rule City



- ...an incorporated municipality that can take any action not prohibited by state or federal law or the constitutions of the US and Texas
- municipalities with 5,000 inhabitants or more
- Home rule cities are not burdened by the limitations of Dillon's rule.
- The voters of home rule cities are required to adopt a charter.
 - Charters detail land usage within the city limits, specify the method used to elect city officials and detail the type of city ordinances the city can enact.

Legal Status of Texas Cities: Home Rule City



- Home rule cities can annex without the approval of the people living in the annexed cities but general law cities cannot annex unless the residents of the targeted area vote to accept annexation.
- Home rule cities may include recall, referendum and the initiative process in their charters.
- However, the legislature has the power to pass laws limiting home rule authority.



Legal Status of Texas Cities: Home Rule City



- **direct democracy at the municipal level:** home rule allows local voters to participate directly
- **initiative:** allows registered voters to force a reluctant city council to place a proposed ordinance on the ballot
- Examples of initiative include cities limiting the sale of beer and wine, freezing property taxes for seniors and people with disabilities, increasing the minimum wage (until recently), placing a cap on property tax rates, etc.

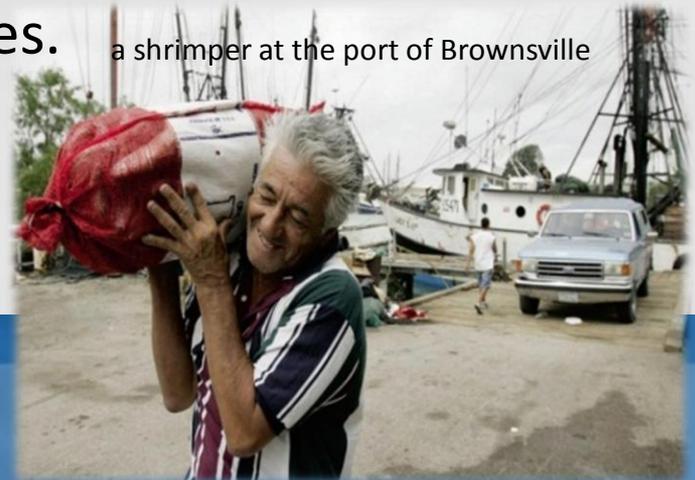


Legal Status of Texas Cities: Home Rule City



- **referendum**: Voters who wish to repeal an existing ordinance can petition the council to hold a referendum election.
- **recall election**: Voters can remove the mayor or a member of the council. Recalled officials must step down once the election results are certified.
- Compared to general law cities, home rule cities enjoy more freedom in organizational structure, annexation, ordinance-making authority and election processes.

a shrimper at the port of Brownsville



Forms of City Government: Mayor-Council



- ...a structure of municipal government in which the voters elect a mayor as the chief executive officer of the city and a council that serves as a legislative body
- The mayor-council system is **the traditional form of city government** in America. It is the most common form of city government among general law municipalities in Texas.
- Together, the mayor and city council are responsible for raising and spending revenue, passing local ordinances and supervising the city's administrative departments.
- Among the largest cities in Texas, Houston is the only one that operates with a mayor-council government.

Forms of City Government: Mayor-Council



- Many political scientists prefer this form of city government because it seems most likely to provide the kind of leadership needed to deal with the problems of major urban areas.
- Cities using the mayor-council form of city government differ in the amount of power the mayor enjoys.



The terms strong and weak in this context refer to the **formal powers given the mayor by the city charter** and do not address an individual mayor's ability to influence local politics in informal ways.

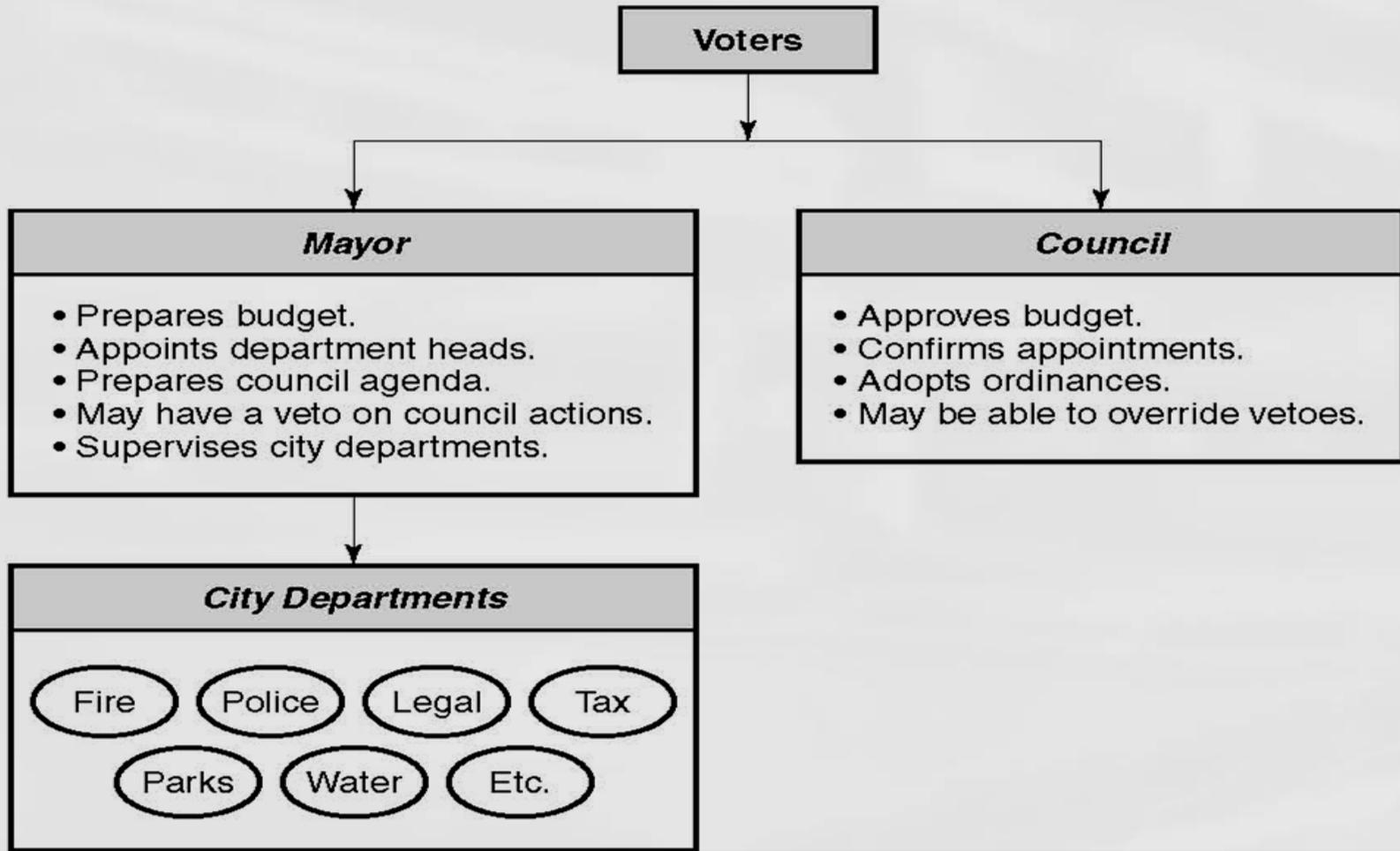
The strong mayor form is most common among the nation's largest cities, while in small communities the weak mayor form is more prevalent.

Forms of City Government: Strong Mayor-Council



- The mayor is the foremost figure acting as both political leader and the city's chief administrator.
- The mayor prepares the budget, vetoes council actions, hires and fires department heads, and runs city government.
- Advocates believe that the system provides for **efficient city government** because it concentrates power and responsibility for policy leadership and implementation in the hands of a single elected official, the mayor.
- Critics argue that this form of city government gives the mayor **too much power** and worry that the mayor will create a personal empire and become a political boss.

Forms of City Government: Strong Mayor-Council

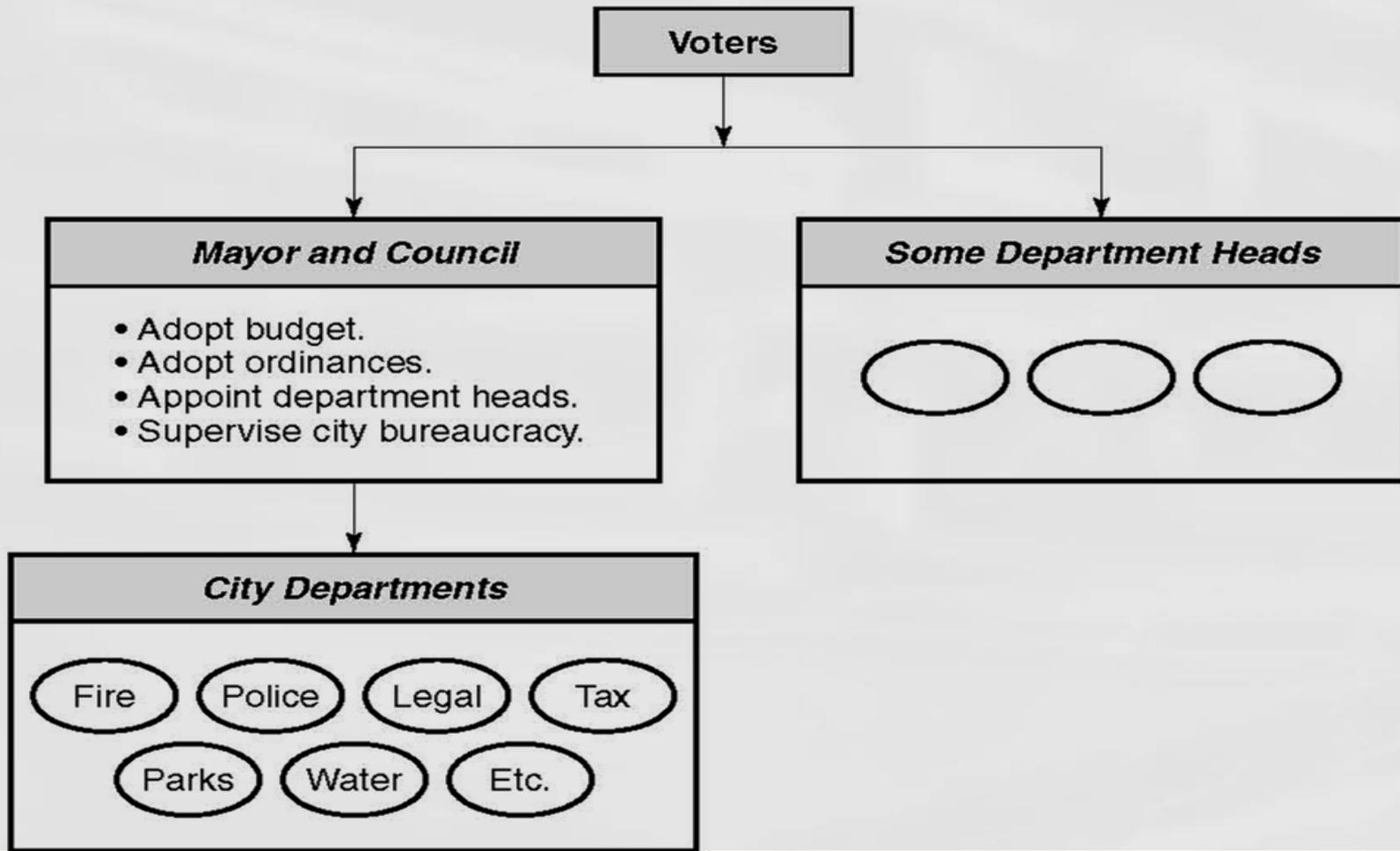


Forms of City Government: Weak Mayor-Council



- Political authority is fragmented because the mayor shares power with the council and other elected officials.
- Other executives such as the city attorney and the city treasurer are also elected.
- The mayor and council together appoint administrative officials, supervise city administration, and adopt the budget.
- Proponents contend it prevents the mayor from becoming too powerful by creating a **check and balance system**.
- Critics argue it **invites corruption and dilutes accountability**.

Forms of City Government: Weak Mayor-Council



Forms of City Government: Council-Manager



- An elected city council of 5 to 15 members appoints a city manager. The **city manager** is the chief administrative official responsible for hiring and firing department heads, preparing the budget, and overseeing policy administration.
- A mayor is elected at-large or by the council, but, except for presiding over the council, has the same powers as the other council members.
- The mayor and city council make basic policy decisions, but the city manager is a professional administrator responsible for policy implementation.
- an historical footnote: In 1913, **Amarillo** was the first city in Texas to adopt a council-manager form of government.

Forms of City Government: Council-Manager



- The council-manager form is the most common type of city government among home rule cities in Texas.



Dallas and San Antonio are two of the largest cities in the country using it.

- Advocates believe that it is **an efficient system that keeps politics out of administration** and administrators out of politics.
- Critics of the council-manager form argue that it may work fine for mid-size, uncomplicated cities, but not for big cities with diverse populations that **need the policy leadership of a strong mayor**. Too, since the **manager is hired by politicians**, it doesn't eliminate politics from management.

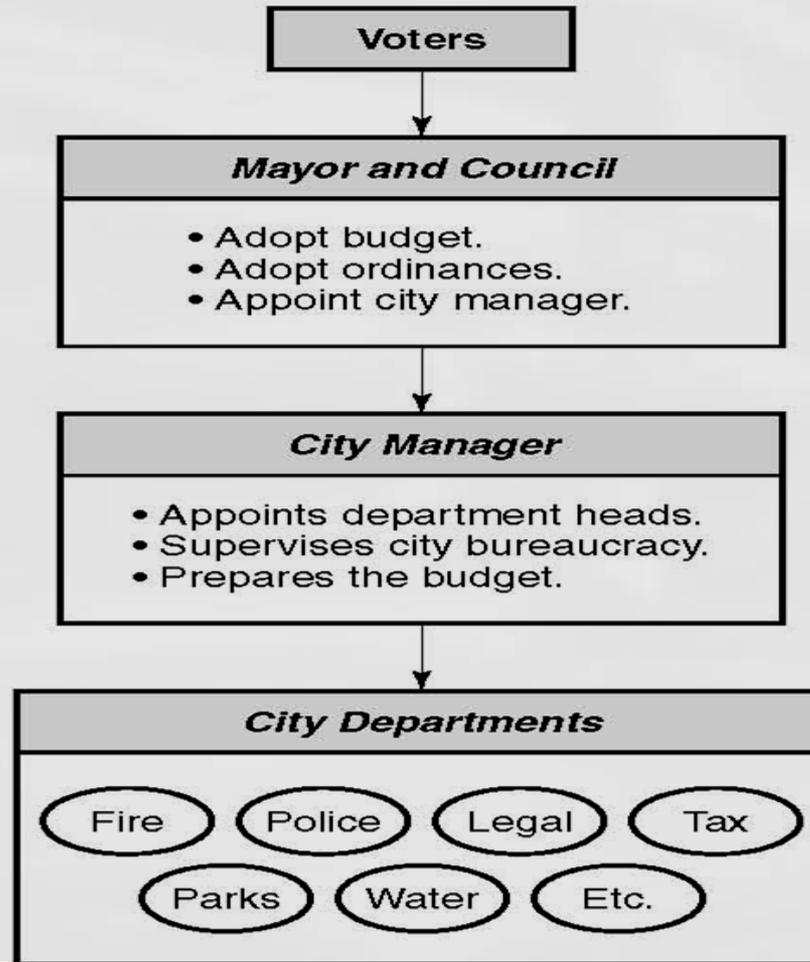
Forms of City Government: Council-Manager



- The combination of part-time council members who often serve short tenures and city managers who are not directly responsible to the voters means that the **average citizen may find it difficult to influence city hall** and the government may tend to promote the values of the business community.
- Festering political problems, especially ones involving ethnic minorities and the poor, may result from the **unresponsive nature** of council-manager cities, but such problems have been diminished somewhat by the increase in cities having district elections and directly elected mayors and by city managers being trained to be sensitive to all citizens.



Forms of City Government: Council-Manager

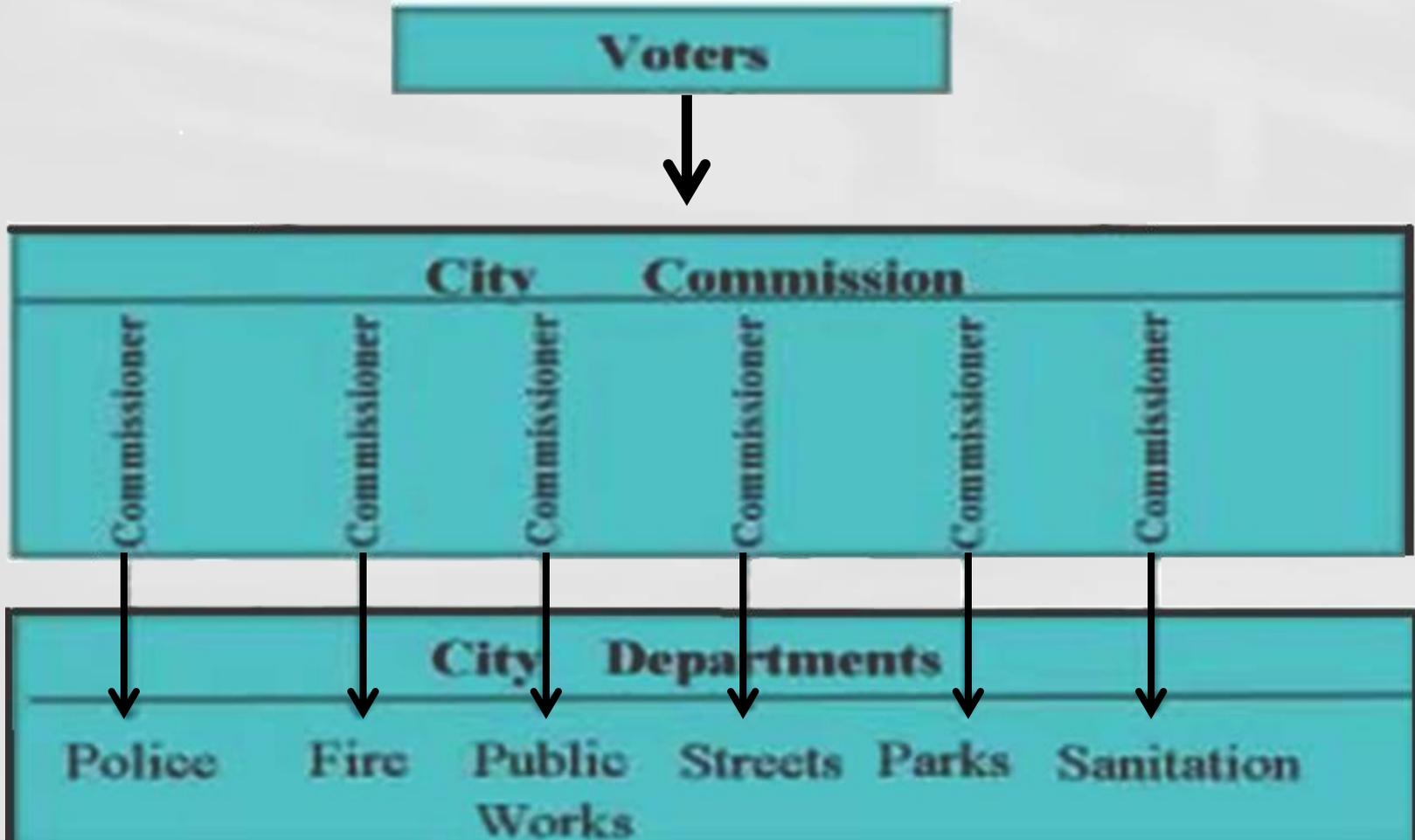


Forms of City Government: Commission



- Elected **commissioners administer various departments** and collectively comprise the policymaking board of the city.
- The commission form has lost favor because many believe that **individual commissioners tend to become advocates for their departments** rather than public-interest advocates.
- Today Texas home rule cities no longer use commission government, although some general-law cities still have this form.
- an historical footnote: This form of city government is said to have originated in **Galveston** to meet its emergency needs following the city's devastation by a hurricane in 1900.

Forms of City Government: Commission



Forms of City Government: Mayor-Manager



- In order to overcome problems associated with its status as a political model, some mayor-council cities (particularly larger ones) have an official appointed by the mayor to tend to the internal business of the city while the mayor attends to political matters.
- The mayor-manager form, also called the **chief administrative officer (CAO) form**, is growing in popularity because it combines the overt political leadership of a strong mayor-council form with the professional management skills identified with a council-manager form.

Forms of City Government: Mayor-Manager



- The mayor provides broad policy leadership while the city manager, who **reports only to the mayor**, focuses on fiscal/administrative policy implementation.
- In Texas, Houston comes closest to the CAO plan in that the mayor and the budget director have a mayor-manager relationship.
- In larger cities a variant of mayor-manager government is emerging as assertive mayors in council-manager cities attempt to carve out larger roles for themselves.
- **hybrid structures**: forms of city government that do not match the classic forms but incorporate features of more than one



Houston mounted
police officer

Forms of City Government Used in General Law Cities



- Although permitted by law to choose either the **aldermanic** (a variant of the mayor-council form), council-manager or commission form of city government, most general law cities in Texas have chosen the former.
- Concerns about the expense and availability of a professional manager have dissuaded many small cities from choosing the council-manager form.
- Most general law cities do have some official (a city secretary or a city clerk, for example) who functions as a manager by virtue of being the only full-time professional person in the city's government.

Forms of City Government: Which form is preferable?



- Council-manager government is the most common for home rule cities.
- Council-manager government seems to work best in middle-sized cities, from 25,000 to 250,000 in population.



These largely suburban cities prefer the emphasis on business-like efficiency and political neutrality of the city manager plan.

- Most smaller cities use a mayor-council form of government.
- Larger cities which need the political focus provided by an elected mayor use either a mayor-council or mayor-manager form.

continued in Local Government in Texas: Cities Part II



THE TEXAS ANTI-SANCTUARY SQUAD MAKES ITS BIGGEST COLLAR YET....

"GIVE ME YOUR TIRED,
YOUR POOR,
YOUR HUDDLED MASSES
YEARNING TO BREATHE
FREE...."

THAT DOES IT, LADY...
YOU'RE UNDER ARREST!

