

## County Auditor Election and Appointment

### CHAPTER 11-09.1 Home Rule Counties

#### 11-09.1-01. Methods of proposing home rule charter.

The board of county commissioners may on its own motion cause a home rule charter to be drafted and submitted for adoption to the electors of the county in the manner provided in this chapter. A home rule proposal may be initiated in a petition filed with the board of county commissioners and signed by qualified electors of the county not fewer in number than two percent of the population of the county.

#### 11-09.1-05. Powers.

After the filing with the secretary of state of a charter approved in reasonable conformity with this chapter, *the county and its citizens may, **if included in the charter and implemented through ordinances:***

*6. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter, a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This subsection does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.*

The people of all counties coming within this chapter have the full right of self-government in all matters within the powers enumerated in this chapter. *The statutes of this state, so far as applicable, continue to apply to counties, except as superseded by the charters of the counties or by ordinances passed pursuant to the charters.*

### CHAPTER 11-10 General Provisions

#### 11-10-02. Number and election of county officers.

Each organized county, unless it has adopted one of the optional forms of county government provided by the code or has combined or separated the functions of county offices or redesignated offices as elective or appointive pursuant to chapter 11-10.2 or 11-10.3, must have the following officers:

1. *One county auditor.*
2. *One recorder.*
3. *One county treasurer.*
4. *One coroner.*

5. A board of county commissioners consisting of three or five members as provided in this title.

## **CHAPTER 11-10.2 County Officer Combination, Separation, and Redesignation**

### **11-10.2-01. County officer combination, separation, and redesignation options.**

1. A county may, ***without requiring local citizens to permit county home rule powers:***

a. *Combine any elective county office with one or more functionally related elective or appointive county offices;*

b. *Separate an elective county office into two or more elective or appointive offices; or*

c. *Redesignate an elective county office as an appointive office or an appointive office as an elective office.*

2. A combination or separation of any elected or appointed county office may include the reassignment of any statutory function of that office or service provided by that office, but may not diminish the general responsibility of county government to perform any function or provide any service that is required by law to be performed or provided by county government.

3. *This option is available in addition to, or in lieu of, other county structural options authorized under this title, unless a specific mandate for combining or separating particular county offices is otherwise provided by law. The office of sheriff is excluded from the application of this chapter.*

### **11-10.2-02. Methods of accomplishing office combination, separation, or redesignation of elective or appointive status.**

*The combination or separation of elective county offices, or redesignation of a county office as elective or appointive, may be accomplished:*

1. ***By resolution of the board of county commissioners***, subject to the right of referendum in the county electors. The board of county commissioners may by a majority vote adopt a ***preliminary resolution*** incorporating a proposed plan for combining or separating county offices, or redesignating a county office as elective or appointive. The board shall cause the complete text of the proposed plan to be published in the official newspaper of the county, at least once during two different weeks within the thirty-day period immediately following the adoption of the preliminary resolution. The board of county commissioners shall hold public hearings and community forums or use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose, conclusions, and recommendations of the plan. *Within two years after the adoption of the preliminary resolution, the board of county commissioners may by final resolution approve the plan or amend the plan and approve it for implementation according to its terms.* The final resolution may be referred to the qualified electors of

the county by a petition protesting the plan. The petition must be signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election, and filed with the county auditor, or functional equivalent of that office, before four p.m. on the thirtieth day after the final resolution is adopted. Within ten days after the filing of the petition, the county auditor shall examine the petition and ascertain from the voter list whether the petition contains the signatures of a sufficient number of qualified electors. Any insufficiencies may be cured by the filing of an amended petition within ten days after the county auditor declares the insufficiency. The final resolution is suspended upon a determination by the county auditor that the petition was timely filed and contains the signatures of a sufficient number of qualified electors. The board of county commissioners shall reconsider the referred resolution, and if it does not repeal the resolution in its entirety, shall submit the resolution to a vote of the qualified electors of the county at the next regular election. The county auditor shall cause the complete text of the resolution to be published in the official newspaper of the county, not less than two weeks nor more than thirty days, before the date of the election. If a majority of the qualified electors voting on the question approves the resolution, the plan incorporated in the resolution is effective and becomes operative according to its terms as if it had not been suspended.

2. *By initiative of county electors.* A petition signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election may be submitted to the board of county commissioners, calling upon the board to submit to the electors the question of adopting a plan described in, or annexed to, the petition. The county auditor, or the functional equivalent of that officer, shall examine the petition and ascertain from the voter list whether or not the petition contains the signatures of a sufficient number of qualified electors. Any insufficiencies may be cured by the filing of an amended petition within thirty days after the county auditor declares the insufficiency. When a plan for the combination or separation of county offices or redesignation of county offices as elective or appointive is proposed pursuant to this subsection, the board of county commissioners shall submit the proposed plan to a vote of the qualified electors of the county at a primary or general election not less than sixty days nor more than two years, as specified in the petition, after determining that the petition is sufficient. The question on the ballot at the election must be framed in a manner that fairly and accurately describes the substance of the proposed plan. The board shall cause the complete text of the proposed plan to be published in the official newspaper of the county, at least once during two different weeks within the thirty-day period immediately preceding the date of the election. The board of county commissioners may, prior to the election, hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the purpose, conclusions, and recommendations of the plan. If a majority of the qualified electors voting on the question approves of its adoption, the plan is effective according to its terms.

### **11-10.2-03. Analysis required — Contents of plan — Limitations.**

1. A proposed plan for combining or separating county elective offices, or redesignating a county office as elective or appointive, must be based on an analysis of each affected office, which may include an analysis of:

a. The existing office organization, functions, and procedures established for providing governmental services;

b. The proposed office organization, functions, and procedures; and

c. How the proposal may improve the effectiveness and efficiency of county government and its responsiveness and accountability to local citizens.

2. The analysis may be performed as part of a study process initiated pursuant to chapter 40-01.1.

3. A proposed plan for combining or separating county elective offices, or redesignating a county office as elective or appointive, may include provision for:

a. The selection, powers, duties, functions, qualifications and training, terms, and compensation of the affected county offices, notwithstanding any other law;

b. Selection, transfer, reassignment, or termination of personnel associated with each affected office;

c. The election or appointment of a county manager, notwithstanding the provisions of chapter 11-09;

d. Transition in implementation of the plan, including elements that consider the reasonable expectations of current officeholders such as delayed effective dates for implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;

e. The limited application or temporary implementation of the plan, including provisions that permit implementation on an experimental or pilot basis such as the expiration of the plan on a date certain in the future, required reapproval of the plan by the electors at a future date, or a phased-in implementation of different components of the plan; and

f. Any other provision deemed necessary for combining or separating the offices or redesignating an office as elective or appointive.

4. A plan may not propose to diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. The plan may not diminish the general responsibility of county government to perform any function or provide any service that is required by law to be performed or provided by county government.

5. A proposed plan may not diminish the future term of office, or redesignate an elected office as appointed, with respect to any person who, on August 1, 1993, holds an elected county office and continues to hold that specific office for future terms on an uninterrupted basis. This subsection does not apply after January 1, 2002, or if the person holding the affected office consents in writing to the proposed plan and files that written document prior to the scheduled implementation of the plan with the district court for the county.