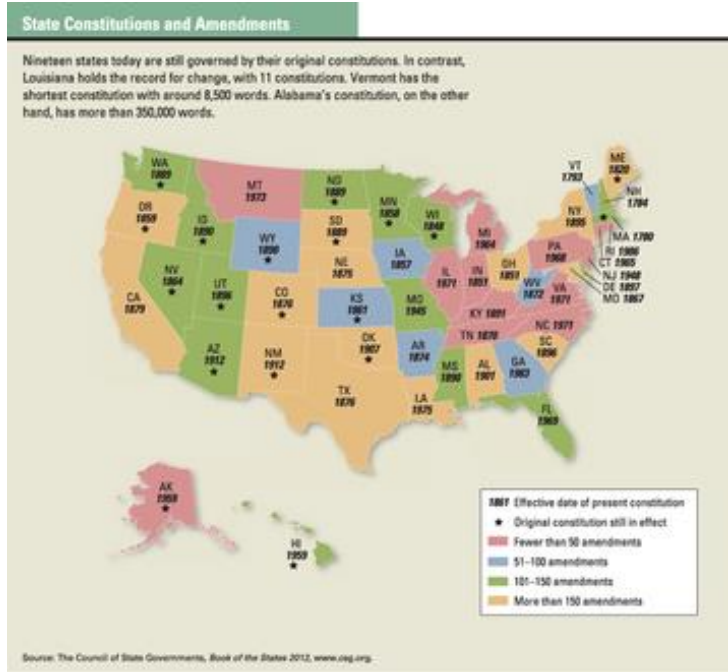


Chapter 6: Federalism: National, State, Local Powers

4. State Governments in a Federal System

Strange things were going on in Texas in 2003. State troopers were scouring the state looking for lost legislators. The missing lawmakers were not in any danger. Instead, they were hiding out in Ardmore, Oklahoma, and later in Albuquerque, New Mexico, in an effort to stall a vote in their state legislature. The activities of state governments do not usually get much coverage in the news. But the case of the runaway Texas lawmakers made headlines across the nation.



State Constitutions: Long and Much Amended

The missing Texas lawmakers were using a provision in their state constitution to keep the legislature from voting on a bill they opposed. The constitution of Texas, like that of most states, requires a **quorum** to be present for the legislature to vote on bills. A quorum is a fixed number of people, often a majority, who must be present for an organization to conduct business. The purpose of a quorum is to prevent an unrepresentative minority from taking action in the name of the full organization.

The U.S. Constitution requires every state constitution to support “a republican form of government.” Beyond that stipulation, each state is free to organize its government as its citizens choose. Nebraska, for instance, is the only state with a unicameral state legislature. Alabama, unlike other states, allows for “local amendments” to its constitution. These amendments apply only to the local areas that approve them.

In contrast to the U.S. Constitution, state constitutions tend to change frequently. Most states have adopted entirely

new constitutions at least once, if not several times. Today, only five states still rely on constitutions written before 1850. This map shows when each state adopted its present-day constitution.

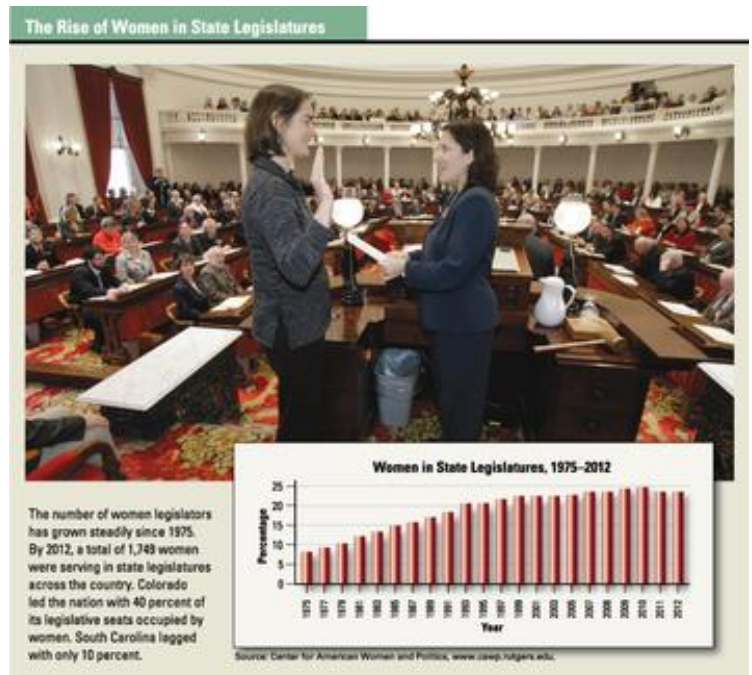
The map also shows that states tend to amend their constitutions relatively often. A majority of states have amended their constitutions at least 100 times. In Texas, voters were asked to approve 19 constitutional amendments during a single election. One of the amendments simply allowed towns to donate old firefighting equipment to charities. At the national level, such an issue would have been settled by an act of Congress.

Because of their many amendments, state constitutions tend to be much longer than the U.S. Constitution. The U.S. Constitution has only about 7,400 words, compared with an average of around 36,000 for state constitutions. Alabama boasts the longest constitution of all—with more than 760 amendments.

State constitutions are usually amended in one of two ways. The legislature may propose an amendment, which is then submitted to voters for approval. About three-fourths of amendments proposed by legislatures win voter approval. Or citizens can petition for a public vote on a proposed amendment through the initiative process. About half of the amendments proposed by citizen initiatives are enacted by voters.

The Role of State Legislatures: Laws, Budgets, and Redistricting

Like the U.S. Congress, state legislatures are responsible for enacting laws, levying taxes, and creating budgets. In all states, lawmakers are elected by popular



vote. Some states elect citizen legislatures, whose members meet only a few weeks per year. Other states elect professional legislatures, whose members meet almost year-round.

State lawmakers act on a wide range of issues. For example, they enact laws that create state parks, establish graduation requirements for high school students, and regulate business activities within the state. They also pass tax laws and draw up budgets to fund everything from state prisons to community colleges.

State lawmakers are also responsible for [apportionment](#), or the distribution of seats in the U.S. House of Representatives and in state legislatures. The U.S. Constitution apportions seats in the House of Representatives to the states based on population.

But Congress does not have the power to say how those seats should be distributed within a state. That decision is left up to each state.



For much of our history, state legislatures varied in how they approached apportionment. Often, lawmakers tried to draw district boundaries to benefit themselves or other members of their party, a practice known as [gerrymandering](#). The term gerrymander was coined in 1811 to describe a salamander-shaped legislative district in Massachusetts. Elbridge Gerry, the governor of Massachusetts, had created the oddly shaped district to help members of his party.

In addition to gerrymandering, some state legislatures favored voters in small towns and rural areas by basing legislative districts on factors other than population. People in cities complained that legislatures dominated by rural lawmakers failed to deal with urban problems. But there was little they could do to force state legislatures to apportion seats differently.

Frustration with this situation prompted a group of citizens, led by Charles Baker, to sue Tennessee's secretary of state, Joe Carr, in 1959. At issue was the failure of the Tennessee legislature to adjust the state's legislative districts since 1901. During that time, many rural families had migrated to cities.

As a result of the legislature's inaction, Baker's urban district had ten times as many residents as some rural districts had. Baker claimed that this imbalance violated his Fourteenth Amendment right to "equal protection under the laws." He asked the court to prevent Carr and other state officials from holding elections in Tennessee until district lines were redrawn.

Baker v. Carr reached the Supreme Court in 1961. In the past, the Court had treated [redistricting](#), or the redrawing of voting districts to reflect population changes, as a political question. As such, it was up to state legislatures, not federal courts, to decide when and how redistricting should take place. After months of deliberation, however, the Court rejected this position. In 1962, it decided that legislative apportionment was a question for state and federal courts to consider.

The impact of this decision was immediate and far-reaching. Within a year, 36 states were involved in lawsuits over their apportionment of legislative seats. A number of these cases, including *Reynolds v. Sims*, came before the Supreme Court in 1964. Speaking for the Court, Chief Justice Earl Warren wrote,

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests . . . A citizen, a qualified voter, is no more nor no less so because he lives in the city or on the farm. This is the clear and strong command of our Constitution's Equal Protection Clause. This is an essential part of the concept of a government of laws and not men.

As a result of this decision, state legislatures across the country were forced to redraw their legislative districts following the principle of "one person, one vote."

Today, redistricting is done every ten years after the Census Bureau reports the results of the national census. A few states have turned over the task of redrawing district lines based on census data to an independent commission. In most states, however, redistricting is still done by lawmakers.

The redistricting process is often divisive. The Texas lawmakers who fled the state in 2003 did so to block action on a redistricting bill they saw as unfair to their party. They did not have enough votes to defeat the bill. Instead, they tried to keep the legislature from voting at all by preventing a quorum from appearing at the statehouse. Redistricting continues to be a concern in Texas. When district lines were redrawn after the 2010 census, the issue was brought to the Supreme Court. In some states, however, arguments of redistricting can get even more intense.

When fists flew in the Illinois legislature in 1981, it was not over policy. It was about politics: the politics of redistricting. That's no surprise. Redistricting is the political equivalent of moving the left field fence for a right-handed hitter. By changing the boundaries, redistricting helps some, hurts others—and leaves just about everyone else scrambling.

—Jack Quinn, Donald J. Simon, and Jonathan B. Sallet, “Redrawing the Districts, Changing the Rules,” *Washington Post National Weekly Edition*, April 1, 1991

The Role of State Governors: Managing the Executive Branch

State governors are usually the best-known public officials in their state. In all states, governors are elected by popular vote. Almost all serve four-year terms. In many states, they are limited to just two terms. After serving as governor, the majority return to private life. But some view the governorship as a training ground for higher office. About half of all U.S. presidents were governors first.

The most important task of a state governor is to manage the executive branch of his or her state government. In addition, most governors have the power to

- help establish the legislature's agenda.
- prepare the state budget.
- veto bills and budgets approved by the legislature.
- appoint state officials.
- grant pardons or reduce a criminal's sentence.
- command the state National Guard.
- issue executive orders.

An executive order is an order issued to a government agency to accomplish a specific task or carry out a specific policy. Governors differ in how they use their power. For example, as governor of Arizona, Jan Brewer issued executive orders that called for the creation of task forces to study problems such as the economy and education.

At times, governors take actions that put them at odds with the federal government. In 2010, for instance, Brewer authorized the training of law enforcers to carry out Arizona S.B. 1070, a controversial bill that allowed police to arrest people suspected of being illegal aliens without a warrant if they do not carry proof of legal residency. However, in *Arizona v. United States* (2012), the Court determined that states do not have the authority to arrest illegal aliens.

Arizona Governor Jan Brewer

Jan Brewer became Arizona's governor in 2009. Her legislative agenda has pushed to increase the state's economic competitiveness, reform education, improve government efficiency, and challenge the authority of the federal government.

Governor Brewer's 2012 Agenda

Economic Development <ul style="list-style-type: none">• simplify tax code to aid small businesses• promote tourism and trade by building interstate highway from Phoenix to Las Vegas• support unemployed and underemployed adults transitioning into new careers	Effective State Government <ul style="list-style-type: none">• modernize State personnel system• create a Government Transformation Office to improve government efficiency
Education <ul style="list-style-type: none">• implement rigorous school standards• increase parent involvement in K-12 education• administer performance-based funding for higher education institutions	Public Safety <ul style="list-style-type: none">• provide health services for mentally ill individuals• improve training of child protection service officials• improve efficiency of abuse hotline
	Federalism <ul style="list-style-type: none">• support immigration reform bill Arizona SB 1070 in Supreme Court case• oppose federal health care law• push the federal government to restore forests in Arizona



Governors may also serve as ambassadors for their state and play a major role in promoting its economic development. As governor of Washington, Chris Gregoire led trade missions to countries in Europe and Asia. When announcing a trade mission to India in 2012, Gregoire explained, “This is our opportunity to get out in front, and make sure that consumers and businesses in India are aware of the quality items produced in Washington state.”

The Role of State Court Systems: Settling Legal Disputes

If you ever have a reason to go to court, you will probably deal with your state court system. The vast majority of legal cases in the United States are handled at the state and local level. Only cases that have a bearing on federal law are heard in federal courts.

There are two main kinds of courts in state judicial systems: trial courts and appeals courts. Trial courts handle most cases that affect the daily lives of citizens. Appeals courts handle cases that are appealed, or requested to be reviewed in order to reverse the decision of a trial court. In general, appeals center on questions involving interpretation of the law.

In most states, there are two levels of trial courts. At the lower level, municipal courts deal with traffic tickets, adoptions, divorces, and minor violations of the law. Small claims courts settle disputes involving small amounts of money—usually less than \$5,000. Most participants in small claims cases act as their own attorneys.

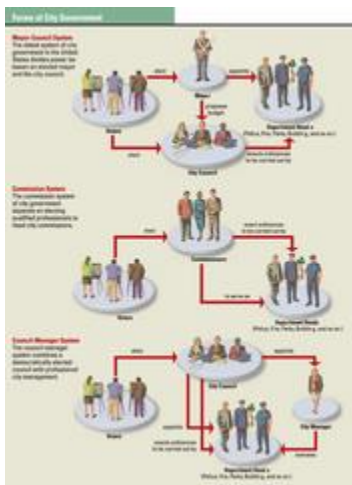
At the higher level, trial courts—with names such as superior court, county court, and district court—deal with major criminal cases and lawsuits. These are the trials usually shown in movies and television dramas.

5. Local Governments

A savvy Massachusetts politician named Thomas “Tip” O’Neill once declared, “All politics is local.” While O’Neill spent much of his career in Washington, D.C., in the House of Representatives, he realized that most of the decisions that directly affect our daily lives are made close to home. Local governments provide such basic services as drinking water, police protection, garbage collection, public schools, and libraries. Despite their importance, local governments are not mentioned in the U.S. Constitution. It is left up to each state to establish local units of government for its citizens.



Counties, Parishes, and Boroughs



Following British tradition, 48 of the 50 states divide their territory into districts called counties. Louisiana is divided into parishes. Alaska, with its large landmass and small, scattered population, divides its land into large boroughs.

The original purpose of counties was to provide government services to rural residents. Initially, these services included law enforcement, courts, road construction and maintenance, public assistance to the poor, and the recording of legal documents. Over time, some county governments expanded to provide health protection, hospitals, libraries, parks, fire protection, and agricultural aid.

Traditionally, county governments were headquartered in the county seat. This was often the largest or most centrally located town in the county. Ideally, the county seat was no more than a day's wagon journey from any county resident. This made it easier for people to participate in local politics.

With the rise of urban areas, towns and cities have taken over many of the functions that were once county responsibilities. In some areas, the duties of city and county governments overlap. For example, most towns and cities today have their own police forces, but the county may maintain a sheriff's office to enforce laws in areas outside city limits.

Most county governments are headed by an elected board of commissioners or board of supervisors. The board's duties vary depending on the powers granted to the county by the state. Other elected officials typically include the county sheriff, treasurer, tax assessor, and judges. The board may appoint other officials, such as the fire marshal and county coroner.

Towns and Cities

As the United States changed from a rural to a largely urban nation, new forms of local government evolved to meet citizens' needs. The three most common are illustrated on the diagram "Forms of City Government."

The oldest form of city government is the [mayor-council system](#). In this system, voters elect both city council members and a mayor. The mayor is the chief executive of the city government. The council is the city's lawmaking body. The duties and powers given to the mayor vary from city to city. Some cities have strong mayors with expansive powers. Others have weak mayors with limited powers.

The mayor-council form of government served most cities fairly well throughout the 1800s. In 1900, however, a natural disaster gave birth to a new approach. That year the Gulf Coast city of Galveston, Texas, was destroyed by a massive hurricane. Believing that its traditional government could not manage the rebuilding effort, a group of influential business leaders pressed for replacing the city council with a board of commissioners appointed by the Texas governor. The board's goal was to turn over the rebuilding effort to civil engineers and other skilled professionals.

Galveston adopted this new [commission system](#). However, criticism that it was undemocratic soon led to the election, rather than appointment, of commissioners. Still, commissioners ran for office based on their formal training in civil management rather than on their political popularity.

The commission system worked wonders for Galveston. The new government rebuilt the city on higher ground and constructed a seawall to protect it from hurricanes. Seeing Galveston's success, dozens of other cities adopted the commission system.

In the 1950s and 1960s, many cities (including Galveston) switched to a third form of local government known as the [council-manager system](#). In this system, citizens elect a city council (often led by a weak mayor), but the day-to-day job of running the city government is handled by a hired city manager. This system combines democratic rule with professional management expertise. Today, the council-manager system is the most common form of city government in the United States.

Special-Purpose Districts

Some functions of government are so specialized that citizens create separate units of government to deal with them. These [special-purpose districts](#) may overlap the geographic boundaries of counties and cities, but they operate independently from those other local units of government.

Special-purpose districts have their own elected leaders and taxing authority. Most carry out just one function, such as running a hospital or a park. Your local school board is an example of a special purpose district. Elected school boards hire school officials, approve school budgets, and establish school policies. Some of the most common functions of special purpose districts include regulating natural resources and providing fire protection.

The Challenges Facing Local Governments

Local city and county governments and special-purpose districts face serious challenges. Because they provide so many vital services, local governments are usually more closely watched by citizens than are the more distant state and national governments. Yet local governments often lack the resources they need to meet everyone's expectations.

More than other levels of government, local governments depend on citizens who are willing to volunteer their time. People who serve on city councils or sit on boards of special-purpose districts get paid very little, if anything at all. The same is true for people who serve on city or county advisory boards, commissions, and task forces. Finding willing and able volunteers to fill these and other positions can be difficult.

To meet these challenges, local governments must be in close touch with the people they serve. This is good news for you and your family. Local officials usually welcome and listen to input from people in their community. By doing something as simple as writing a letter to your local newspaper or speaking up at a local city council or school board meeting, you can affect how decisions are made. And who knows, you might decide to get involved in local government yourself.

