

creating strong regional governments in America. Does the author persuade you that regional governments are a good idea? If we created strong regional governments in our metropolitan areas, would it be accurate to describe them as exercising “decentralized” or “local” power?

The Note on Regional Governments that follows the Rusk article identifies governmental forms that attempt to create a regional governance structure. These approaches establish regional governance without relying solely on inter-local cooperation, the establishment of limited-jurisdiction public authorities, an exclusive focus on land use planning, or the establishment of a full-fledged, consolidated regional government. Are the structures identified in the note consistent with Rusk’s vision of regional government? Finally, Margaret Weir’s article contrasts the political circumstances that led to the successful regional government in Oregon and Minnesota with those that undermined regional solutions in California and Illinois. Like Rusk, Weir clearly believes that regional solutions are desirable. Does her description of the alternatives in California and Illinois (which she characterizes as failures) convince you that regionalism is necessary? Could her sympathetic description of the politics that gave rise to regional government—grass roots political activism in Oregon and enlightened experts in Minnesota—be recast as special interest capture and metropolitan elitism? Consider the political impediments to regionalism in light of the earlier readings on exclusion and sprawl. Weir’s article suggests that similar conditions promote both problems and that regionalism is a potential solution to both.

DAVID RUSK, CITIES WITHOUT SUBURBS

Pp. 85, 91–95, 122–124 (1993).

Reversing the fragmentation of urban areas is an essential step in ending severe racial and economic segregation. The “city” must be redefined to reunify city and suburb. Ideally, such reunification is achieved through metropolitan government. * * * Having a metropolitan government is much better than trying to get multiple local governments to act like a metropolitan government. The former is a more lasting and stable framework for sustained, long-term action. * * *

There are three different ways metropolitan governments can be created. In single-county metro areas, urban county governments can be fully empowered and municipal governments abolished; or county and municipal governments can be consolidated into new, unified governments. In multicounty metro areas, cities and existing counties can be combined into a single, regional government. Each of these three options will be discussed in turn.

Empowering urban counties. Except in New England, counties have been the basic framework of local government within which municipalities

(a more intensive form of local government) come into being. Counties typically predate urban development. They are the creation of a state or territorial legislature, which initially partitioned the state or territory's land into large governing units. County jurisdictions are remarkably stable. There are today 3,042 counties in the United States; forty years ago there were 3,052 counties. (Such stability has given rise to the adage that "the legislature may create municipalities, but only God can create a county.")

County government has been the government of rural and small-town America. As urbanization occurs, municipalities are formed to control development through planning and zoning and to provide a more intensive level of local services. Generally, county government continues to be responsible countywide (including within municipalities) for certain services—the county courts (state criminal trials), county assessor (property tax assessment), county treasurer (property tax collection), county clerk (records and elections), and often a county hospital (indigent health care). In addition, counties provide public services (roads, parks, fire and police protection) to unincorporated areas of the county.

Over the decades, however, as areas have urbanized around older cities, counties have been empowered by legislatures to provide full municipal-type services to unincorporated areas. Urban county governments often rival or exceed major city governments in size and scope. Moreover, although county government is often more limited in the array of taxes it can levy, its tax base is much broader than that of municipal governments within its boundaries. (County government bond ratings are typically one full level above bond ratings of inelastic central cities located within them.)

County government, when developed to the greatest extent, becomes a major deliverer of urban services, such as the government of Los Angeles County. County government may become the dominant local unit of government, both providing services and controlling area development. Montgomery County, Maryland, is an outstanding example * * *.

The most direct—and probably most efficient—path to creating metropolitan government in the majority of metro areas is to empower urban county government, have it absorb the functions and responsibilities of all municipal governments within its boundaries, and abolish all municipalities. This is an action that is fully within the legal powers of most state legislatures even if at present such sweeping urban reorganization is beyond legislators' desires and political powers.

Consolidating cities and counties. Typically, movements to create area wide governmental units have focused on consolidating municipal governments with their surrounding county governments. In recent decades the most notable consolidations have merged the central city with

single counties. Indianapolis-Marion County, Nashville-Davidson County, Jacksonville-Duval County are examples. * * *

Each city-county consolidation has been custom-made for its area. The ultimate structure represents a compromise with tradition and political realities. Traditional functions of county government may be absorbed into the new, unified government (Nashville-Davidson) or continued as independent functions while the new government assumes service-providing functions for all unincorporated areas (Indianapolis-Marion County). Bowing to political reality, certain municipal enclaves may remain (for example, the town of Speedway within Indianapolis), and rural residents may have to be reassured through creation of lower service, lower tax zones (Nashville).

Despite such compromises, city-county consolidations do initially achieve the key goals: unification of the tax base and centralization of planning and zoning authority. With the continued spread of suburbia and long-distance commuting, the long-term dilemma is that metro areas often grow beyond the consolidated boundaries of the consolidated governments. Indianapolis-Marion County, Nashville-Davidson County, and Jacksonville-Duval County were all highly successful consolidations of the 1960s. Today Indianapolis-Marion County is 59 percent of its ten-county metro area; Nashville-Davidson, 50 percent of its six-county area; and Jacksonville-Duval County, 70 percent of its five-county area. With the populations of outlying counties growing rapidly, their metropolitanization must be updated.

Combining counties into regional governments. The most significant multicounty combination is also the least remembered: the creation of New York City in 1898 * * *. Several independent local communities in what are now New York City's five boroughs were combined. For its first fifty years the consolidated result—New York City—functioned very well. Since the 1950s, however, the consequences of the White middle-class movement to the suburbs and the burgeoning low-income Black and Hispanic populations within the city have largely obscured New York City's earlier success as a consolidated, multicounty regional government. * * *

Conclusion and Recommendations

* * * Throughout history cities have been the arena of opportunity and upward mobility. In America the "city" has been redefined since World War II. The real city is now the whole urban area—city and suburb—the metropolitan area. Redeeming inner cities and the urban underclass requires reintegration of city and suburb.

This is the toughest political issue in American society. It goes right to the heart of Americans' fears about race and class. There will be no short-term, politically comfortable solutions.

The organization of metro areas into local governments has greatly affected the degree of racial and economic segregation. Within their expanding municipal boundaries, elastic cities have captured much of the growth of the suburbs. Elastic cities minimize city-suburb disparities, thereby lessening the separations between racial and economic groups.

Inelastic cities, in the battle over middle-class America, have lost to their suburbs. Some never even fought the good fight. Whatever the success of their downtown as regional employment centers, inelastic city neighborhoods have increasingly housed most of the metro area's poor Blacks and Hispanics.

How can responsibility for poor minorities be made a metropolitan-wide responsibility? How can all jurisdictions—city and suburb—assume a “fair share”?

Traditionally, the primary purpose of regional cooperation among local governments has been the delivery of public services. Regional arrangements usually avoid policies and programs that share the social burdens of inner-city residents. Yet this is the heart of the challenge. Areawide compacts on transportation planning, solid waste management, sewage treatment, and air quality management may be “good government,” but they address the urban problem only if they attack racial and economic segregation.

For many small and medium-sized metro areas, the surest way to avoid or reverse patterns of racial and economic segregation is to create metro governments. This can be achieved by expanding the central city through aggressive annexation policies, by consolidating the city and county, or by fully empowering county government and abolishing or reducing the role of municipalities.

For larger, more complex metro areas, metro government may be neither politically feasible nor administratively desirable. Larger government is not necessarily more efficient government. At any scale, efficiency is largely a function of good management. Given the bureaucratic impulse of many large systems, metro government may be less efficient and less responsive as a deliverer of services than smaller governments.

It is not important that local residents have their garbage picked up by a metrowide garbage service or their parks managed by a metrowide parks and recreation department. It is important that all local governments pursue common policies that will diminish racial and economic segregation. The following four policies are essential:

1. “fair share” housing policies (supported by planning and zoning policies) that will encourage low-and moderate income housing in all jurisdictions;

2. fair employment and fair housing policies to ensure full access by minorities to the job and housing markets;
3. housing assistance policies to disperse low-income families to small-unit, scattered-site housing projects and to rent-subsidized private rental housing throughout a diversified metro housing market; and
4. tax-sharing arrangements that will offset tax-base disparities between the central city and its suburbs.

In baldest terms, sustained success requires moving poor people from bad city neighborhoods to good suburban neighborhoods and moving dollars from relatively wealthy suburban governments to poorer city governments. The long-term payoff will be an overall reduction in poverty, dependency, and crime areawide, and "prosperous cities [which] are the key to vital regional economies and to safe and healthy suburbs."

State government must play the leading role. Local government is the creature of state government, which sets the ground rules for local initiative and can create new local governments and merge old ones. Furthermore, governors and state legislators can and do act as metrowide policymakers. State government also plays an increasingly important role in revenue sharing for local government. With the purse comes additional power (and responsibility) to make the organization of metro areas more rational and equitable.

State government must act. It must

1. improve annexation laws to facilitate continuous central city expansion into urbanizing areas;
2. enact laws to encourage city-county consolidation through local initiative or to reorganize local government by direct state statute;
3. empower county governments with all municipal powers so that they can act as de facto metro governments, where appropriate;
4. require all local governments in metro areas to have "fair share" affordable housing laws; and
5. establish metro wide tax-sharing arrangements for local governments or utilize state aid as a revenue-equalizing mechanism.

As I stated earlier, reorganizing local government is primarily a task for initiative and hard work at the state and local levels. There are key roles, however, for the federal government. Since World War II the federal government's "urban policy" has been "suburban policy." It is past time for

the federal government to deal with the consequences of its handiwork in terms of helping bridge the city-suburb gap. * * *

NOTE ON REGIONAL GOVERNMENTS

State law traditionally recognizes only two tiers of governmental authority: local governmental authority and state governmental authority. There are very few states that recognize anything resembling a distinct, intermediate, third tier of governmental authority—namely, regional governmental authority.

Even though state law does not traditionally recognize regional government as a distinct component of the state governmental structure, some governmental entities within states may have regional jurisdiction. For example, many states have established regional authorities like the Georgia Regional Transportation Authority. These regional authorities, however, are not regional governments. They are more akin to state administrative agencies. They are usually run by appointed rather than elected officials, and they usually have jurisdiction over only a limited set of issues that affect a given region. Such authorities are not general purpose governments akin to cities on the one hand or to states on the other.

In a related vein, there are cities or counties in some states of such geographic size that they in a sense govern a region. However, large counties or cities do not represent a distinct, third tier of regional government. Such cities or counties do not serve as governments for the region in the way that state governments serve as governments for the state. State governments serve as governments within a statewide legal system that also recognizes a distinct tier of local governmental authority, comprised of smaller-scale governmental entities such as cities and counties. By contrast, large city or county governments serve as the sole local governing entity within that region. The traditional two-tier governance structure can easily accommodate the possibility, in other words, that a given city or county might be large enough to encompass an entire region.

In those states that do recognize a distinct, regional tier of government, what does it look like? Two examples (though there are others, such as Unigov in Indianapolis and Miami-Dade in Florida) may be found in Minnesota and in Oregon.

In 1967, the Minnesota legislature created the Metropolitan Council for the Minneapolis-St. Paul region, an area comprised of numerous counties and more than 150 municipalities. The governor appoints the council members, and in this respect, the council follows the model of regional authorities rather than general purpose governments. On the other hand, the council's jurisdiction is broader than that of the typical limited-jurisdiction regional authority. In fact, the council initially served as the supervisory agency for several, limited-jurisdiction regional authorities, such as the Metropolitan Transit Commission, the Regional Transit Board, and the Metropolitan Waste Commission. In 1994, the state legislature abolished several of these special

authorities and vested the council with direct operational control over these regional matters.⁴⁶

In a similar vein, the legislation that created the council charged it with carrying out a regional land use policy planning function. Subsequent legislation has enhanced the council's regional planning authority, by allowing it to require each locality in the region to submit its land use plans to the council for approval. The metropolitan council has not, however, fully exercised its land use authority. As Myron Orfield, a member of the Minnesota House of Representatives and a central figure in the legislative reform efforts, explains:

The Land Planning Act allows the council to require a local community to "modify a comprehensive plan or any part thereof which may have a substantial impact on or contain a substantial departure from metropolitan system plans." These terms are broad and open ended, but the Met Council has narrowly construed its authority. Under a system of self-imposed restraint, the council will require a plan amendment only when the local comprehensive plan imposes a burden on a metropolitan system that "threatens its capacity"—a fairly cataclysmic event. Consequently, the council has rarely used its authority to shape regional planning, and the Twin Cities region has continued to develop in an exceedingly, low-density, restrictive, fragmented way.

These important expansions of the council's authority—even though that authority has not always been used to its fullest—have made the council more akin to a distinct, regional tier of the state governmental structure than to a special authority that has jurisdiction over a particular regional matter. Indeed, as the scope of the council's authority over regional issues has grown, there has been increasing pressure to transform the council from an appointed to an elected body.

Regional government in the Minneapolis-St. Paul area also draws strength from the nation's most significant regional tax-sharing plan. The state fiscal disparities law, adopted by the Minnesota legislature in 1971, requires all taxing jurisdictions in the region—from villages to central cities to suburbs to school districts—to contribute 40 percent of the post-1971 increase in assessed value of commercial and industrial property into a regional fund. Distributions from this regional fund are then made to cities on the basis of their population and their tax capacity (measured by the per capita market value of commercial and industrial property within the jurisdiction). As of 1998, the fund totaled more than \$400 million, with receiving cities outnumbering contributing cities nearly three to one. The common fund comprises about 20 percent of the region's total tax base. Interestingly, Minneapolis moved over time—and as a consequence of a downtown office boom—from being the largest net recipient to the largest net contributor.

⁴⁶ See David Rusk, *Inside Game/Outside Game: Winning Strategies for Saving Urban America* 222–248 (1999); Myron Orfield, *Metropolitics: A Regional Agenda for Community and Stability* 189–196 (1997).

Nevertheless, there remain enormous fiscal disparities within the region. In this regard, it is important to emphasize that the revenue-sharing system excludes all residential property from the common fund.

Interestingly, the nascent regional governmental structure that the state legislature created in the Minneapolis-St. Paul region more than three decades ago has been the target of significant reform efforts in the last several years. Prodded by a coalition comprised of constituents and representatives of central cities and constituents and representatives of inner-ring suburbs, the state legislature has passed several recent bills that would augment the council's authority, increase regional obligations in the area of housing, and expand regional tax-sharing. Many of these legislative efforts, however, have failed as a result of gubernatorial vetoes that have not been overridden.

Unlike Minnesota, Oregon's experiment in regional government involves the use of an elected regional governing entity. Article excerpts by Knaap, Nelson, and Abbott (in Section B-3 above) describe more about Portland's Metro regional governance structure and its history. Metro helps to enforce the Urban Growth Boundary that directs development in the region and comes as close to a full-fledged, regional government as does any entity in the country. Significantly, Metro operates pursuant to its own home rule charter that voters in the region adopted in 1992. The home rule charter reflects the important degree of independent authority that Metro possesses to act as a governmental tier distinct from either the cities within its jurisdiction or the state, which possesses ultimate authority over it. This charter gives Metro the power to ask for voter approval of a regional property tax, sales tax, or income tax. Metro also has the power to adopt limited "niche taxes" without voter approval.

The charter sets forth regional land-use planning as Metro's primary responsibility. Metro is also responsible for the operation of a regional solid waste disposal system; the operation of various regional facilities, ranging from the zoo to the state convention center; the administration of a regional parks and open space system; the development and marketing of data; and the planning of responses to natural disasters. By virtue of its home rule grant, the metro also has evolving power over issues of "metropolitan concern."

The Portland area's Metro constitutes, at least as a formal legal matter, a distinct, third tier of regional government within Oregon's overall state governance structure. Like an independent city, Metro has home rule authority; that authority extends, however, over matters of "regional" rather than "local" interest. Metro does not exercise all of the powers of a local government, such as powers over law enforcement or fire protection. Nor is education within its ambit. It nonetheless possesses many more powers than the typical regional entity. Finally, Metro is comprised of officials who are elected region-wide.

A key question to consider in assessing the experiments in regional government underway in both Minnesota and Oregon is whether the three-tier model of state government—with local governments at the bottom, regional governments in the middle, and state governments at the top—is a wise one.

After all, many of the problems of inter-local inequity thus far examined are arguably attributable to both the vertical separation between state and local affairs that the two-tier system fosters, and the horizontal separation between localities that the two-tier system encourages. Might not the three-tier system solve some problems of horizontal separation between localities within the region only by creating new lines of separation both horizontally between regions and vertically between the local, regional, and state tiers?

At the same time, it may be that the creation of a third-governmental tier may serve to empower localities within the region to consider a set of policy paths that would not have occurred to them in the absence of a shift away from the traditional two-tier governance structure. Of course, if the purpose behind regional government is to empower local governments to consider alternative policies that the current state law governance structure implicitly forecloses, it may be that regional governance is unnecessary. For example, to bring about regional land use planning and to control sprawling suburban growth, Maryland has reformed state law without turning to a three-tier governance model. Maryland, as Sheryll Cashin explains, "restricts all state spending to 'priority funding areas' that are designated by local governments but which must be served by existing infrastructure and which must meet state minimum density requirements."⁴⁷ Such state alteration of local incentives might be understood as a different means of accomplishing the same ends that the establishment of a full-fledged regional government like Metro is intended to bring about.

MARGARET WEIR, COALITION BUILDING FOR REGIONALISM

From Bruce Katz (Ed.), *Reflections on Regionalism*.
Pp. 127–129, 130–135, 140–146 (2000).

For over a century, urban planners and supporters of "good government" have argued in favor of metropolitanism. These advocates have criticized the growth of conflicting and overlapping local political and administrative jurisdictions on grounds of both efficiency and equity. In the postwar era, as suburbs grew and metropolitan political jurisdictions multiplied, a chorus of planners—many enjoying positions of influence within an expanding federal government—called for solutions ranging from outright government consolidations to voluntary cooperation among the maze of metropolitan governments. Despite the persistent complaints from urban experts about the irrationality and unfairness of metropolitan fragmentation, their ideas have had very limited practical impact on postwar American cities and suburbs. The wave of expert enthusiasm for metropolitan regionalism in the 1960s and 1970s left only a handful of city-county consolidations and a legacy of weak regional organizations with few resources and even less power. There were two important exceptions to this

⁴⁷ See Sheryll Cashin, *Localism, Self-Interest, and the Tyranny of the Favored Quarter: Addressing the Barriers to New Regionalism*, 88 *Geo. L. J.* 1985, 2048 n. 292 (2000).