

Judicial and Local Government

Review for Exam

What are the functions of the judiciary?

Which types of courts perform them?

- Application of law Trial Courts
- Appeals Appellate Courts
- Judicial Review Both Trial and Appeals

Main Steps in the Application of Law

- Finding of facts
- Determining if law fits facts
- Interpretation of the law (charge to jury)
- Determination of legal rights
 - judgment (civil cases)
 - verdict (criminal cases)

Judicial Review

- “Judicial review occurs when any court determines whether a legislative, executive, or judicial action was valid under the law”
 - Did policy making body have the authority to make the policy?
 - Did an executive official act within the scope of the authority granted?
 - Did a lower judicial court decide correctly?

Grounds for Appeal

- Appeals on basis of law and procedures
- Appeals on the rules of evidence
- Appeals on the constitutionality of the law

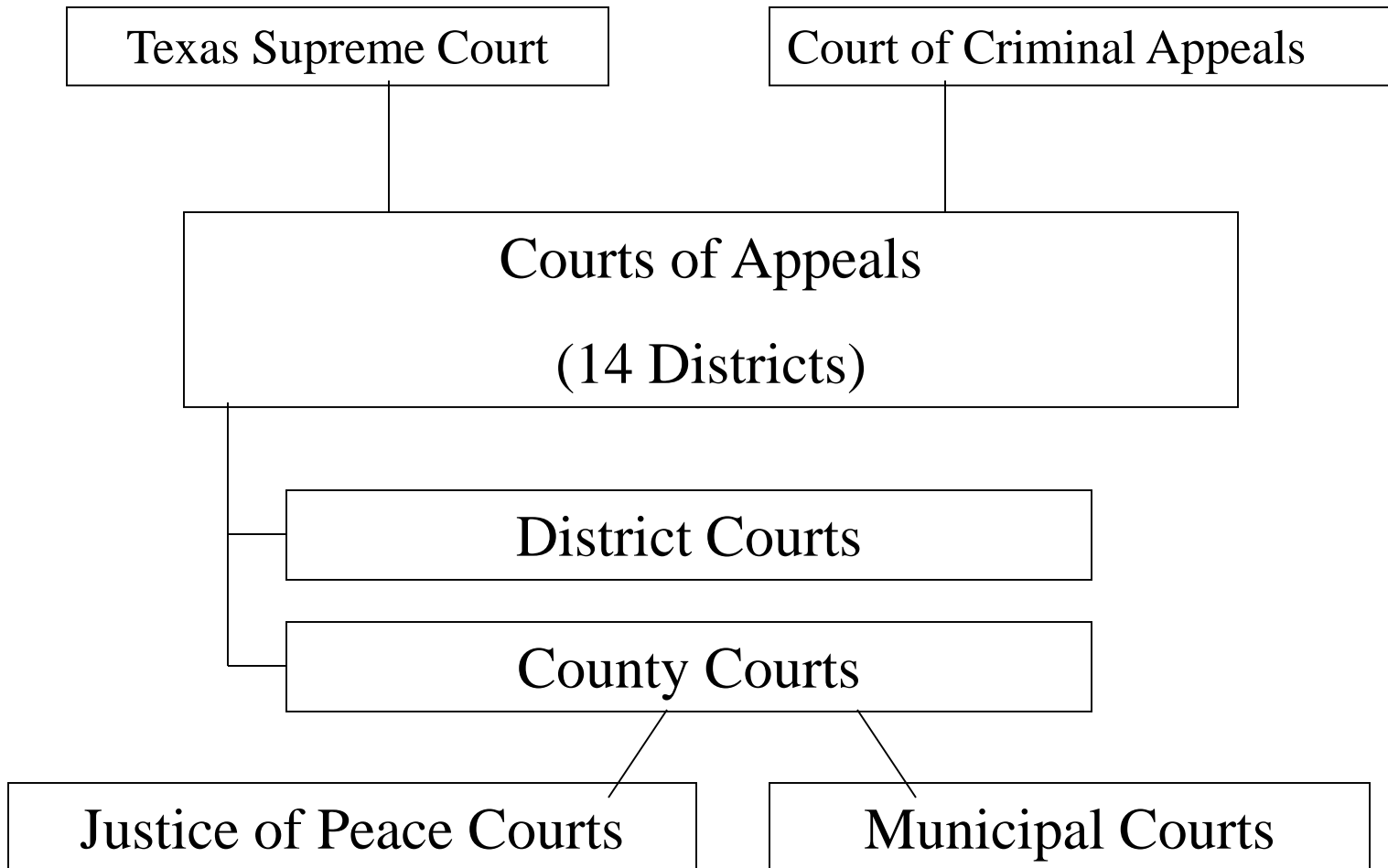
Criminal Law

- Laws which define types of actions which can be punished by the government
- Categories of criminal law are
 - misdemeanors
 - felonies

Civil Laws

- Activities which are not covered under criminal laws
- Basic categories
 - torts
 - contracts
 - equity proceedings

Court Structure of Texas



Juries

- Grand Juries (12 members)
 - Selected by Jury Commission appointed by District Judge
 - May issue “true bill” or indictment on vote of 9 members
 - All testimony is given in secret
- Trial Juries (6 JP/County, 12 District)
 - prospective jurors called by random
 - exemptions- over 70, custody of young children, full-time students

Major Concerns of Judicial System

- Compensation for victims of crime
- Crowded dockets
- Judicial compensation and retirement
- Disciplining and removal of judges
- Structural reorganization
- Minority judges

Local Government

What are the main theories of local government sovereignty? Which does Texas apply?

- State Sovereignty- all authority rests with the state (Dillon's Rule: "Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature.")
- Local Sovereignty- local governments have rights to exist, powers to elect their officials, and conduct their business.

What are the three main units of local government? How do they differ? What is the legal status of each?

- County- an administrative subdivision of the state
- Municipal governments- incorporated subdivision of the state chartered by the state
- Special districts- special purpose units of government. Created either by a special act of the legislature or under a general statute.

What are the main elected officials of county government?
What are their main responsibilities?

- County Judge- duties
- County Sheriff- duties
- Tax Assessor Collector- duties
- County Clerk-duties
- District Clerk-duties
- County/District/Criminal District Attorney
- Treasurer/Surveyor-(may be optional)- duties

How are the appointed officials of county government selected?

- Appointed officials are named by the Commissioner's Court of the County.

Required Functions of Counties

- Administration of Justice
 - law enforcement
 - courts (jp/ county/ district for urban counties)
- Tax Collection
- Record keeping and custody
- Elections
- ROW for state highways
- Administration of state mandated programs

Optional Programs

- County may undertake any optional programs not outlawed. Major problem is financing such programs. Examples include
 - parks
 - libraries
 - health
 - transportation (airports)
 - waste disposal

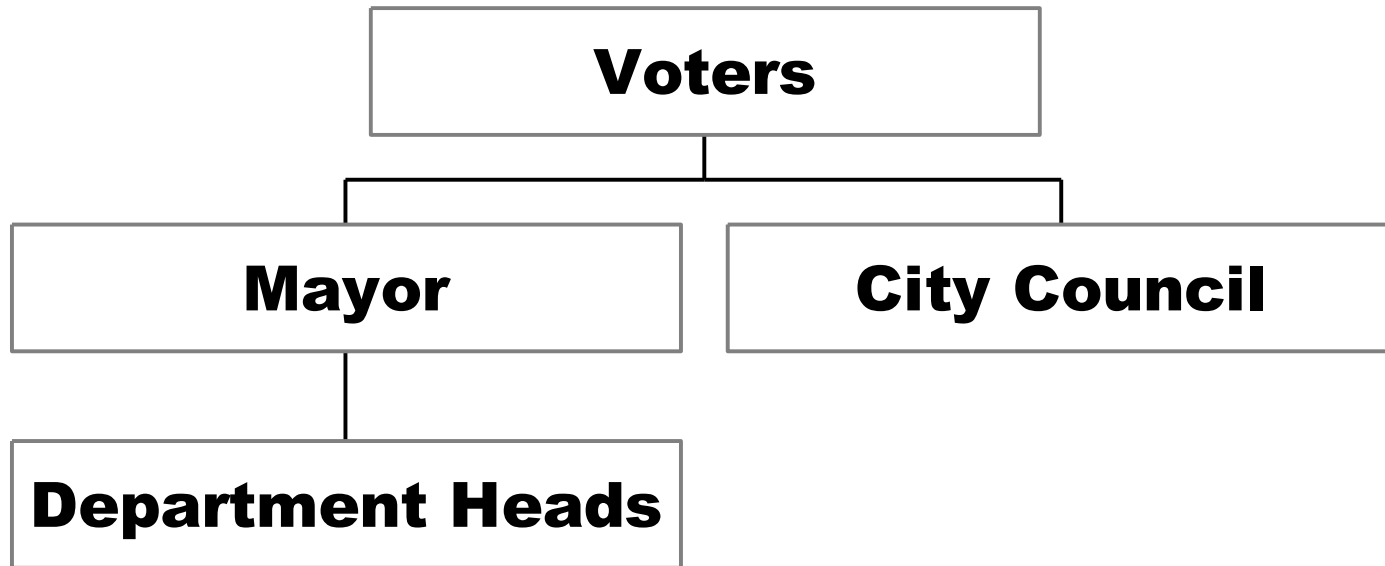
County Revenues

- Property taxes
 - \$.80/\$100 for general fund
 - \$.15/\$100 for roads & bridges
 - \$.30/\$100 for maintenance of farm to market/flood control
 - \$1.25/\$100 maximum property
- Sales taxes- (1/2 cent) -only for counties that do not have transportation districts
- Fees/Fines
- Federal Aid (for specific programs)

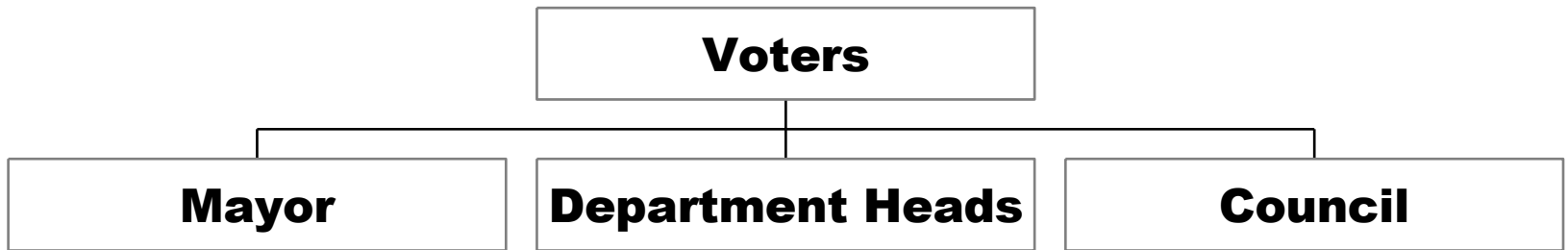
Municipal Government

- Voluntary incorporated sub-division of state
 - Home Rule for municipalities with population ≥ 5000
 - General Law Charters-minimum 200 persons, max 5000
- Types of municipal governments
 - Mayor Council
 - Strong
 - Weak
 - Council Manager
 - Commission

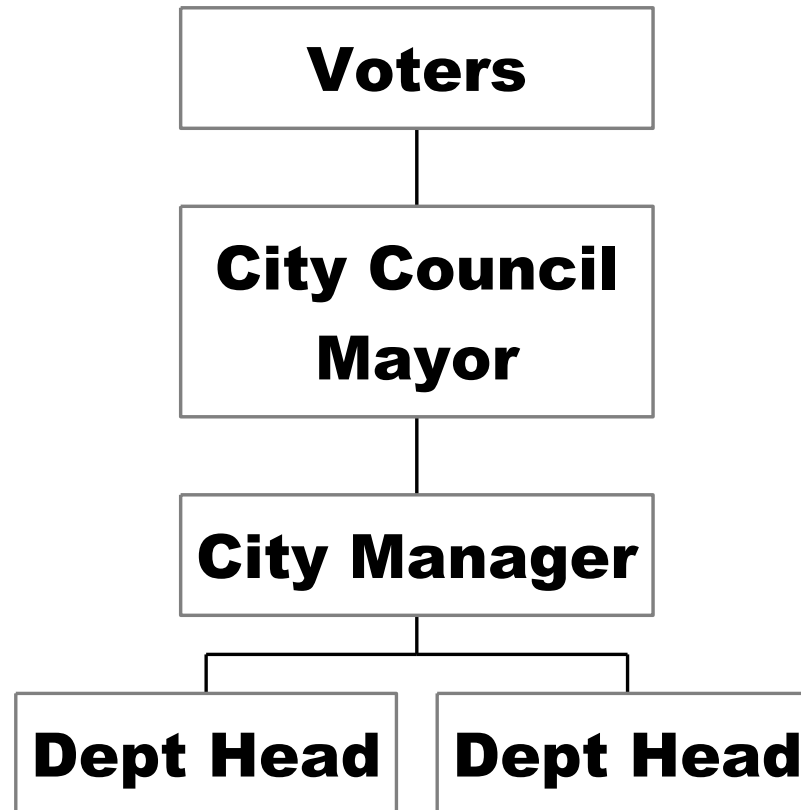
Strong Mayor Council



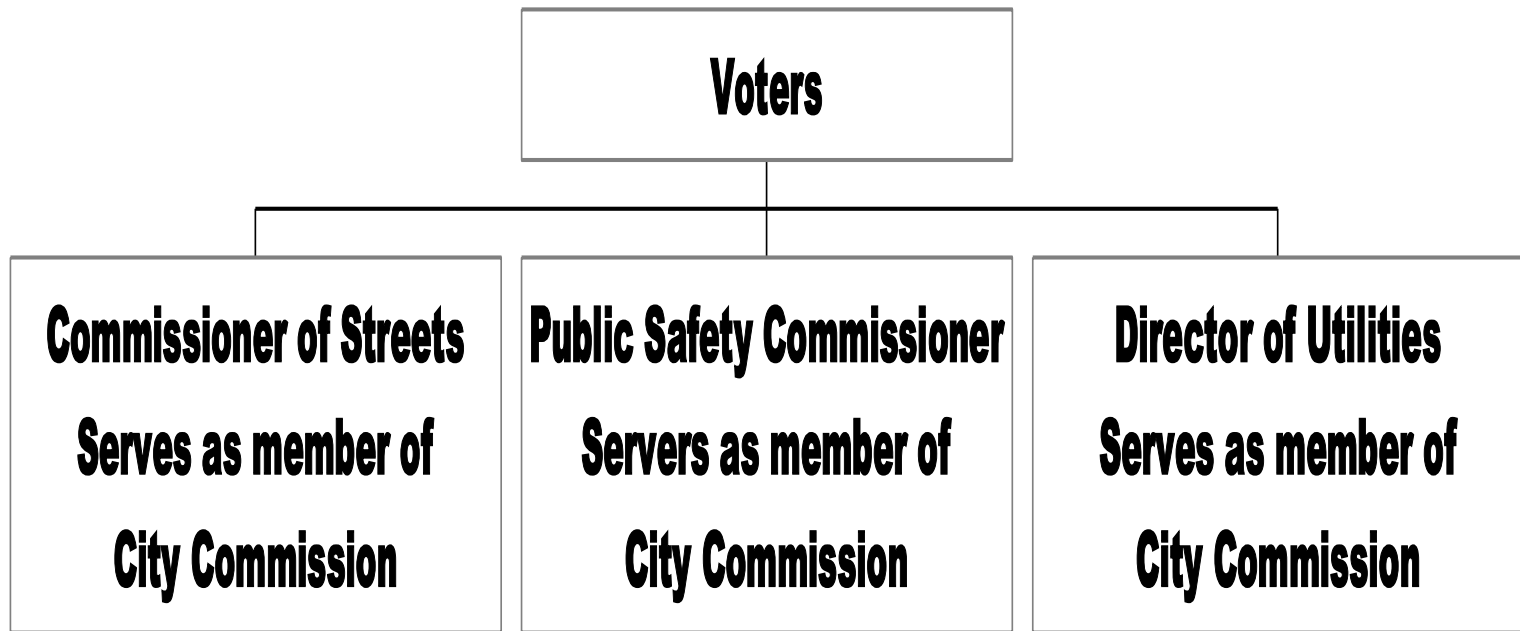
Weak Mayor



Council Manager



Commission Form



Powers of Cities

- Protection-
 - police and fire, health, food inspection
- “Welfare” functions
 - assistance to needy (largely a state function now), libraries, parks and recreation
- Physical Services
 - zoning, housing, streets, drainage, flood control
- Utilities
 - water, sewage, solid waste,
 - electricity, natural gas, public transit, airports

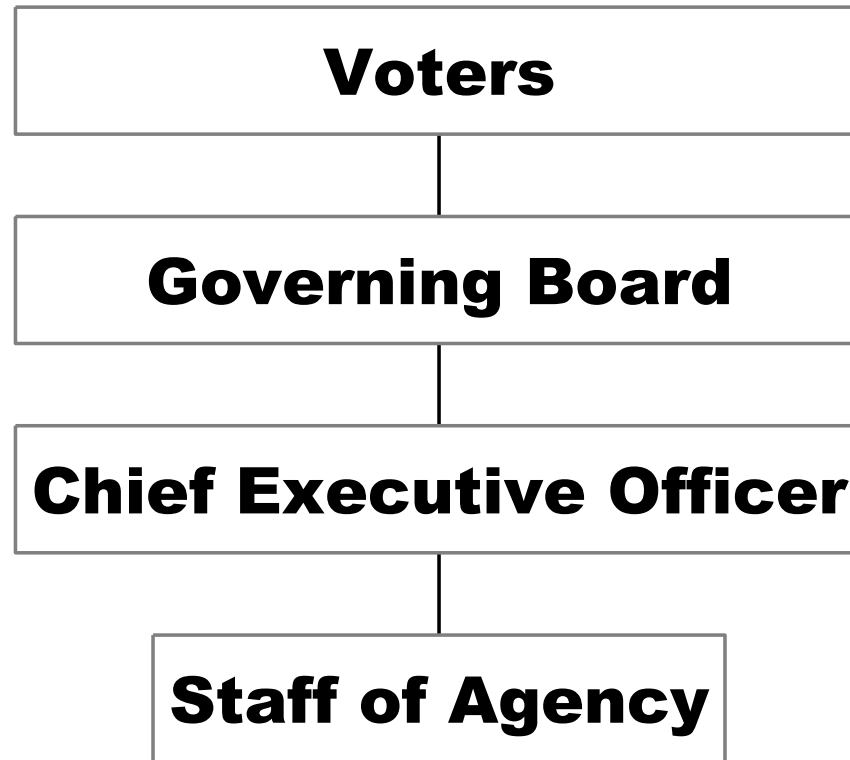
Municipal Finance

- Sales tax
 - up to 1 cent per dollar with voter approval (with legislative permission, cities can add an additional \$.25 for beaches, etc)
- Property tax
 - General Law \$1.50/\$100
 - Home Rule \$2.50/ \$100
- Occupation taxes (taxes on privilege of doing business)
- Fees/Fines
- Federal aid

Special Districts

- Special purpose units of government
- May be created by
 - Special Law (a specific act of the Legislature)
 - General Law (allow a special district to be created if voters approve and all conditions of the general law are met)

Structure of Special District Government



Reasons for Creation

- Unsuitability of existing governments
- Geographical limits on existing governments
- Financial restrictions on existing governments
- Difficulty of coordinating existing units
- Public ideas that specialization is efficient

Problems with Special Districts

- Undemocratic
- Expensive
- Decentralizing
- Difficulty with assigning responsibility

Financing Special Districts

– Schools

- property taxes- limit of \$1.50/\$100 av/ also see Robin Hood plan
- state aid- **only unit of local government that receives state aid**
- federal aid- limited to special projects
- fees (community colleges)

– Transit Districts

- fees
- sales taxes- up to one cent, must be approved by voters

– Other Districts

- property taxes
- fees