



County of El Dorado

Legislative File Number 09-1169 (version 1)

Charter vs General Law

RECOMMENDATION (From the Grand Jury Report)

The Grand Jury recommends to the Charter Commission and the Board of Supervisors that the revocation of the Charter be placed on the ballot for a decision by the voters at the next election.

The following is from the Grand Jury Report

BACKGROUND

The California Constitution allows for two types of counties: General Law Counties and Charter Counties, both of which are technically legal subdivisions of the State. General Law counties are organized and governed according to State Law. Charter Law counties are similarly organized and governed. However, charter counties have a limited degree of “home rule” authority that may provide some additional flexibility or potential power.

The Charter form of government has been in effect in California since the early 1900's. In 1911 California voters enacted non-partisan local elections and home rule charter authority for cities and counties. The voters enacted these amendments to the California Constitution for cities and counties when the State of California Legislature was unable to address local concerns effectively. In the early 1900's, in an era that lacked modern democratic innovations like public records acts, open meetings, notification requirements, and strict public contracting laws, the major goal was to achieve the reduction of corruption in professional public service. The California Constitution, Article XI, Sections 3(a), 3(b) and 3(c) allows the electors of a county, by majority vote pursuant to general law to adopt, amend, review or repeal a charter (Election Code §9100-9126).

In his study, “The limited and Contrary Usage of County Charter Reform: Two California Cases”, Alvin D. Sokolow (a public policy specialist at the University of California-Davis) concluded that charters have had little influence on local governments. The premise of a charter is also questionable since general law applies to almost 95% of functions in county government. In fact, California constitution law, government codes and general law supersede local ordinances or rules in most cases. University of Arizona professors Dawn Cowan and Tanis Salant stated in their article “The Prospects for County Charter Form in California” that charters do not provide much opportunity for expanded fiscal and functional powers. Another noted quote from the California State Association of Counties states “a charter does not give county officials extra authority over local government, revenue raising abilities, budgetary decisions and intergovernmental relations.”

METHODOLOGY

The State of California has fifty-eight counties of which fourteen counties are Charter Counties. The remaining forty-four counties are General Law Counties. The 2008-2009 Grand Jury gathered information and studied from ten charter counties in the State, namely: Alameda, Butte, Fresno, Orange, Placer, Sacramento, San Bernardino, San Mateo, Santa Clara and

Tehama.

Charters not studied by the Grand Jury were Los Angeles, San Diego and San Francisco Counties. These counties, considering population size and diversity, do not compare well with El Dorado County.

FINDING 1

The Grand Jury has come to the conclusion that the County has been operating for several years with an “obsolete government philosophy”. Investigations by the Grand Jury found few, if any, progressive innovations in county departmental operations. Previous Grand Juries have focused on personnel turnover, deficient operations in many departments, and too much supervisory control by the Board of Supervisors over day-to-day operational issues in county government.

In its recap of Grand Jury reports over the last five plus years, the same question arose time after time: “why is there no improvement in El Dorado County operations?”

During its interviews with elected officials, department heads, county counsel, management and a large number of county employees, the same theme seemed to come into focus. Change was slow and too little. Progress was always just around the corner. Why the large number of turnover amongst department heads? Why such little change and progress over many years when problems had been identified, but left uncorrected?

The Grand Jury took a close look at the Charter and determined that this document in the past fifteen years stood in the way of progress and failed in its mission to guide the county to better and more efficient government. It has, in effect, become the county’s “Achilles heel”. The Grand Jury surmised that the Charter impedes progress and in fact contributes little to the promises that were made to the voters when enacted in 1994.

The cumbersome and costly compliance with Charter enforcement runs into hundreds of thousands of dollars annually. The enactment and delays encountered because of the County Charter has significantly contributed to a large increase in the cost of county government. The commissions, boards and charter procedures costs runs into the hundreds of thousands of dollars. Collectively these costs amount to an estimated \$1,000,000 per year. The uncontrolled costs of the Charter are a clear waste of taxpayer money.

If the Charter were in fact a significant policy document that meaningfully guided El Dorado County’s course, the hidden cost of the Charter would be a reasonable tradeoff. However, the Charter typically addresses insignificant issues or makes insignificant clarifications. The El Dorado County Charter contains approximately seventeen references and/or deferrals to General Law. In fact, a line-by-line comparison of the El Dorado County Charter and the enormous body of state law governing counties reveals only minor differences between the Charter and General Law.

Moreover, of the nineteen amendments that have occurred since the adoption of the Charter, ten of those have been simply adoptions of references to general law and became inoperative due to changes in state law and outdated timeframes, or corrected outdated wording and references. Many of the more “substantive” amendments such as term limits for supervisors, or Sheriff salaries, could be addressed outside of the Charter through general law if voters so choose. It is very questionable whether such a large amount of time and resources should be devoted to something that provides such little tangible benefit. The Charter has not delivered on

its promise to enhance local control or make the county government more efficient. On the contrary, it appears to be a cumbersome self-sustaining administrative document that only adds unnecessary bureaucratic requirements to county government. Weighing the benefits against the burdens, it appears that the El Dorado County Charter is more burdensome than it is beneficial.

Conclusion: The 2008-2009 Grand Jury states the following:

During its investigation the 2008-2009 Grand Jury discovered that the El Dorado County Charter is one of the least read documents in the County and in County Government. The Grand Jury interviewed many directors, supervisors and county employees. Many had not read nor had any idea what was in the Charter. Interviews and discussions with employees made it clear that the Charter is not effective. Because of the Charter provisions, change is difficult to achieve. The Charter is typically reviewed or changed every five years.

It is the Grand Jury's opinion that the Charter has not been effective for the past fifteen years. The Charter Commission should seriously investigate the Charter shortcomings and make its recommendations strongly but fairly to the Board of Supervisors.

There are articles in the Charter that are not enforced or that have created difficulties. The Charter is, and has been, an ineffective instrument for County Government. The Charter Commission has a serious mission to recommend changes that could have a profound effect in county government structure and operations. Government in El Dorado County could and should be made more effective and cost efficient. This Grand Jury respects the difficulties faced by the Charter Review Commission and its tasks.

For the past fifteen years the County has operated under a Charter form of government and it has not improved County governing functions. If the Charter is revoked, the next fifteen years should lead El Dorado County to a better and more effective County government under General Law.