

21st Century County Charter
Grand Jury Case 15-04
Public Release June 9, 2016
(BOS Response due NLT September 7, 2016)

Background

The 2015-16 Grand Jury conducted a review of the County Charter. The County of El Dorado appreciates the efforts of the Grand Jury. The following is the County of El Dorado's response to the findings and recommendations of the Grand Jury in accordance with Penal Code §933 and §933.05.

TERM OF OFFICES

Finding

F1. "Term limits for county supervisors should be removed from the charter."

Response: The Board of Supervisors disagrees with the finding as it proposes to implement a recommendation of the Grand Jury.

El Dorado County Charter Article I, Section 201 provides for the methods to amend the County Charter, providing that an amendment may be proposed by either the Board of Supervisors or "by a petition signed by at least 10% of the electors who voted in the last gubernatorial election."

Additionally, Article VII, Section 701, provides that the Board of Supervisors shall convene a Charter Review Committee within five (5) years of the last charter review. This Committee shall review the Charter and make recommendations to the Board of Supervisors for amendments to or revisions. A Charter Review Committee was last convened in 2014. The 2014 Charter Review Committee carefully considered the issue of term limits for members of the Board of Supervisors and voted not to recommend repeal of term limits for members of the Board. The 2014 Committee agenda and minutes are available for review on the EDC website.

Recommendation

R1. "The grand jury recommends amending section 202 of the charter."

202. Term of Offices

~~The term of office of supervisor is four years. Board members shall be limited to two consecutive terms. No person elected supervisor may serve as such for more than two successive four year terms. Any person elected to the office of supervisor to complete in excess of two years of a four year term shall be deemed, for the purpose of this section, to have served one full term upon the expiration of that term. No person having served two successive four year terms may serve as a supervisor until at least four years after the expiration of the second successive term in office. Any supervisor who resigns with less than two full years remaining until the expiration of the term shall be deemed, for the purpose of this section, to have served a full four year term. The above shall not disqualify any person from running for election to the Board of Supervisors for any term or terms which are not successive. The term of office commences at noon on the first Monday after the January 1st succeeding their election.~~

The supervisor for each of the First, Second and Third Districts shall be elected in ~~1996~~even numbered years when Presidential elections occur. The supervisor for each of the Fourth and Fifth Districts shall be elected in ~~1994~~even numbered years when Presidential elections do not occur.

Response: This recommendation will not be implemented because it is not within the sole control of the Board of Supervisors.

The Board intends to continue to uphold the decisions of El Dorado County voters who have adopted and amended the County Charter, which includes term limits for members of the Board of Supervisors. The Board will review any future recommendations from the Charter Review Committee and consider for placement on a future ballot.

FILLING OF VACANCIES

Finding

F2. "Special elections are very expensive; it would be more expeditious and much less costly to allow the board of supervisors to appoint a replacement who meets all the qualifications necessary to run for the set, for the remainder of the term or until the next regular countywide election, whichever comes first."

Response: The Board of Supervisors agrees with the finding that special elections are very expensive.

Recommendation

R2. "The grand jury recommends amending section 203 of the charter:"

203. Filling of Vacancies

Whenever a vacancy occurs in the office of supervisor, the unexpired term shall be filled by appointment within 90 days of a person qualified to run for the office by an affirmative vote of at least three supervisors. Appointment will be for the remainder of the term or the next countywide election, whichever occurs first. ~~election. If the vacancy occurs more than 90 days but less than 180 days before a scheduled primary, general, or special election, involving the district in which the vacancy has occurred, then the election to fill the vacancy shall be consolidated with the scheduled election. If the vacancy occurs more than 180 or less than 90 days before a scheduled primary, general, or special election involving the district in which the vacancy has occurred, then the vacancy shall be filled at a special election called by the Board of Supervisors to take place not less than 90 nor more than 180 days after the vacancy occurs. The special election shall be conducted in accordance with the provisions of general state law regarding special elections. The candidate with the highest number of votes shall be elected to fill the unexpired term.~~

In the event that there are not enough remaining board members to constitute a quorum or the board is unable to reach consensus of at least three supervisors within 90 days, general law shall apply.

Response: This recommendation will not be implemented because it is not within the sole control of the Board of Supervisors.

The Board intends to continue to uphold the decisions of El Dorado County voters who have adopted and amended the County Charter. The Board will review any future recommendations from the Charter Review Committee and consider for placement on a future ballot.

RECALL

Finding

F3. "The charter should contain a provision for the board of supervisors to adopt an ordinance setting forth procedures to remove any elected official for significant misconduct."

Response: The Board of Supervisors agrees that the County Charter does not presently contain a procedure for removing elected officials on the basis of significant misconduct. The Board of Supervisors disagrees with the balance of this finding as it states a recommendation for Board action regarding changes to the County Charter.

Recommendation

R3. "The grand jury recommends amending section 209 of the charter:"

209. Recall and Removal from Office

Any supervisor is subject to removal from office by recall.

Any County elected official may be removed from office in the manner provided by state law. In addition, any elected official can be removed by a four-fifths vote of the Board of Supervisors as set forth by ordinance. Any such removal must be for good cause. The board must first serve upon such officer a written statement of alleged grounds for such removal, and give the officer a reasonable opportunity to be heard. The authority shall not be used to interfere with the independent and constitutionally and statutorily designated investigative and prosecutorial functions of the Sheriff or District Attorney, or the independent and constitutionally and statutorily designated authority of any of the other elected officials.

Response: This recommendation will not be implemented because it is not within the sole control of the Board of Supervisors.

The Board intends to continue to uphold the decisions of El Dorado County voters who have adopted and amended the County Charter. The Board will review any future recommendations from the Charter Review Committee and consider for placement on a future ballot.

COMPENSATION

Finding

F4. "The charter should mandate that the supervisor compensation ordinance explicitly declare the salary, benefits and other compensation for the board of supervisors and should not contain any obscure future increases that are tied to the salaries and benefits of other officials, especially officials whose salaries are set by the board."

Response: The Board of Supervisors agrees with the finding.

Recommendation

R4. "The grand jury recommends amending section 204 of the charter:"

204. Compensation

Compensation of supervisors shall be fixed by ordinance. Salary, benefits and any other compensation must be clearly set forth within the ordinance and not be subject to future change by changes to other officials' salaries or benefits over which the board of supervisors has any influence.

Response: This recommendation will not be implemented because it is not within the sole control of the BOS.

The Board intends to continue to uphold the decisions of EDC voters who have adopted and amended the EDC Charter. The Board will review any future recommendations from the Charter Review Committee and consider for placement on a future ballot.

ELECTED DEPARTMENT HEADS

Finding

F5. "A potential conflict exists within the provisions of charter section 210 b.(2) and 402. That conflict should be clarified."

Response: The Board of Supervisors disagrees with the finding. No conflict exists between the two sections of the County Charter.

Recommendation

R5. "The grand jury recommends amending section 402 of the charter:"

402. Elected Department Heads

The following department heads shall be elected:

- a. Assessor
- b. Auditor/Controller
- c. District Attorney
- d. Recorder/Clerk
- e. Sheriff/Coroner/Public Administrator
- f. Surveyor
- g. Treasurer/Tax Collector

The term of office of all elected officers is four years. The elected officers shall serve until their successors are qualified unless sooner removed as provided by this charter or their powers and duties have been consolidated, segregated, assigned or transferred in accordance with Section 210 b.(2) of this charter.

Response: This recommendation will not be implemented because it is not within the sole control of the Board of Supervisors.

The Board intends to continue to uphold the decisions of El Dorado County voters who have adopted and amended the County Charter. The Board will review any future recommendations from the Charter Review Committee and consider for placement on a future ballot.

DUTIES OF THE CHIEF ADMINISTRATIVE OFFICER

Finding

F6. "The charter does not require the Chief Administrative Officer to adhere to state law."

Response: The Board of Supervisors agrees with the finding. Nonetheless, ordinances, policies, and County Charter provisions are not required to restate existing law. Furthermore, the County Charter provides that, for matters not addressed by the Charter, the general laws set forth in the Constitution of the State of California and the laws of the State of California shall govern, including those which apply to the Chief Administrative Officer.

Recommendation

R6. "The grand jury recommends amending section 304 of the charter."

304. Duties

The Chief Administrative Officer shall be responsible to the Board of Supervisors for the proper and efficient administration of such of the affairs of the county as are or hereafter may be placed in the charge of the Chief Administrative Officer, or under the jurisdiction or control of the Chief Administrative Officer, pursuant to the provisions of state law, this Charter, or of any ordinance, resolution or order of the Board of Supervisors. In addition to other powers and duties herein provided, the Chief Administrative Officer shall have the duty and power to:

The remainder of Section 304 remains unchanged

Response: This recommendation will not be implemented because it is not within the sole control of the Board of Supervisors.

The Board intends to continue to uphold the decisions of El Dorado County voters who have adopted and amended the County Charter. The Board will review any future recommendations from the Charter Review Committee and consider for placement on a future ballot.

CLASSIFIED AND UNCLASSIFIED EMPLOYEES

Finding

F7. "The language of section 502.1 gives the board of supervisors "...the right for good cause and after written notice to affected parties, to make "de minimis" changes which amend the foregoing list.", of unclassified positions."

Response: The Board of Supervisors agrees with the finding.

Recommendation

R7. "The grand jury recommends amending section 502.1 of the charter."

502.1 Classified and Unclassified Employees

The classified service consists of all positions in which employees have achieved civil service status except those positions designated as unclassified below.

The unclassified service consists of:

- a. County Administrative Officer;
- ab. elected county officers;
- bc. appointed department heads;
- cd. all appointed boards, committees and commissions;
- de. all persons serving without compensation (compensation does not include incidental fees and expenses);
- ef. casual patient and inmates at county institutions;
- fg. the following administrative personnel charged with making policy decisions: Deputy Director of Welfare; Undersheriff; The Undersheriff shall have the right to return to a former classified position in accord with county ordinance;
- gh. any person holding a confidential position to each member of the Board of Supervisors;
- hi. persons employed to render professional, scientific, technical or expert services on a temporary basis for a specific project;
- Ij. persons covered under State Merit Systems;
- jk. persons employed as independent contractors pursuant to contracts, as authorized by the Board of Supervisors.
- kl. persons otherwise excluded by operation of law.

The Board of Supervisors shall have the right for good cause and after written notice to affected parties, to make "de minimis" changes which amend the foregoing list.

Response: This recommendation will not be implemented because it is not within the sole control of the Board of Supervisors.

The Board intends to continue to uphold the decisions of El Dorado County voters who have adopted and amended the County Charter. The Board will review any future recommendations from the Charter Review Committee and consider for placement on a future ballot.

OTHER FINDINGS AND RECOMMENDATIONS

Findings

F8. “Section 102 of the El Dorado County Charter authorizes the board of supervisors to propose amendments to the existing charter at any time without the need of a Charter Review Committee.”

Response: The Board of Supervisors agrees with the finding, adding that Section 102 provides that an amendment may also be proposed by a petition signed by at least 10% of the electors who voted at the last gubernatorial election. The Board of Supervisors has responsibility for convening a Charter Review Committee, at least once every five (5) years per the County Charter. The Charter Review Committee has responsibility to “review the charter” and to “make recommendations for amendments to or revisions of” the Charter as set forth in EDC Charter Article VII, section 701.

F9. “The board of supervisors should do a comprehensive review of the authority granted to charter counties to determine if there are benefits to being a charter county that El Dorado County could take advantage of.”

Response: The Board of Supervisors disagrees with the finding, and recommends that a comprehensive review be conducted by the next Charter Review Committee. Please see the response above to Finding F8. The Board of Supervisors agrees that the Board of Supervisors has responsibility for convening a Charter Review Committee, at least once every five (5) years per the County Charter. The Charter Review Committee has responsibility to “review the charter” and to “make recommendations for amendments to or revisions of” the Charter as set forth in EDC Charter Article VII, section 701.

Recommendations

R8. “The El Dorado County Board of Supervisors should place some or all of the recommended charter changes, R1 through R7, outlined above, on the next or future general or special countywide election.”

Response: This recommendation requires further analysis. It is recommended that the Chief Administrative Office return to the Board within the next six months with a recommendation to begin the process of convening a Charter Review Committee. Should the Board of Supervisors approve this recommendation, it is anticipated that a Charter Review Committee will be convened within the next 12 months. The Board will review any future recommendations from the Charter Review Committee and consider for placement on a future ballot.

R9. "The grand jury recommends that the board of supervisors have staff examine the other 13 charters to see if there are additional benefits that El Dorado County could realize."

Response: This recommendation will not be implemented. The Board of Supervisors recommends that a comprehensive review be conducted by the next Charter Review Committee. Please see the response to Recommendation R8, above.