

COUNTY OF SISKIYOU STAFF REPORT

MEETING DATE: March 18, 2024

TO: Siskiyou County Board of Supervisors

FROM: Natalie E. Reed, County Counsel

SUBJECT: A Brief Introduction to Charter Counties

I. INTRODUCTION: CHARTER COUNTIES

There are two types of counties in California: general law counties¹ and charter counties.² Siskiyou County is a general law county. General law counties, like Siskiyou County, follow state statutes as to the number and duties of county elected officials. Charter counties, of which there are 15 in California, exercise a limited degree of “home rule” over the county’s governing board, officers, and employees through charters. A county charter is a governing document, akin to a “general plan of municipal government”, that defines the structure, powers, and duties of its officials.

II. COUNTY CHARTER: REQUIREMENTS

A county charter must provide for the following: 1) an elected governing body of 5 or more members;³ 2) an elected sheriff; 3) an elected district attorney; 4) an elected assessor, and 5) other elected or appointed officers.⁴ County charters must also provide for 1) the compensation, terms, and removal of the officials listed above; 2) the performance of functions required by statute; and 3) the powers and duties of the governing board and all other officers, including consolidation of duties and filling vacancies.⁵

If a charter fails to provide for any of these matters, then the general law shall govern.⁶ This means that a county charter may address just a single topic, such as how to fill a vacancy in the office of supervisor,⁷ and otherwise refrain from changing its governing structure, thereby defaulting to general law. Alternately, a county charter may be more complex and address many aspects of the county’s governing structure.

¹ General law counties: Alpine, Amador, Calaveras, Colusa, Contra Costa, Del Norte, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Plumas, Riverside, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Cruz, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Trinity, Tulare, Tuolumne, Ventura, Yolo, Yuba.

² Charter Counties: Alameda, Butte, El Dorado, Fresno, Los Angeles, Orange, Placer, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, Shasta, Tehama.

³ Cal. Const. Art. XI, Sec. 4 (a)-(b).

⁴ Cal. Const. Art. XI, Sec. 4 (c).

⁵ Cal. Const. Art. XI, Sec. 4 (d)-(e).

⁶ People ex rel. Kerr v. County of Orange (2003) 106 Cal.App.4th 914.

⁷ In a general law county, pursuant to Government Code section 25060, “[w]henver a vacancy occurs in any board of supervisors, the Governor shall fill the vacancy. The appointee shall hold office until the election and qualification of his successor.”

III. COUNTY CHARTER: DISTINCT FROM CITY CHARTER

While charter counties enjoy greater control over the areas discussed above, ultimately the state constitution authorizes county charters to address, and thereby supersede general law on, a narrow range of issues. A charter does not give a county or its officials more regulatory power, nor give the County the same degree of autonomy or “home rule” that cities enjoy. Cities are voluntarily formed corporations, and *city charters* should not be confused with *county charters*.⁸ While charter cities have complete authority to govern on all “municipal affairs” and those provisions “supersede all laws inconsistent” with them, “[t]here is no corresponding grant of authority and autonomy over the ‘county affairs’ of charter counties...Indeed...the Constitution requires charter counties to provide for the performance of functions required by statute...”⁹ In sum, while a charter allows a county greater control over certain aspects of its *governance structure*, it would not give Siskiyou County the broad plenary authority of a charter city,¹⁰ nor give Siskiyou County control in matters of statewide concern for which the field is occupied, nor grant increased authority in intergovernmental relations.

IV. COUNTY CHARTER: PROCESS FOR ADOPTION

The process for becoming a charter county is described in Government Code Sections 23700 to 23732. To become a charter county, a county's board of supervisors can either pass an ordinance¹¹ and call for the election of a 15-member elected charter commission¹², or draft a proposed charter itself,¹³ which is then presented to the electorate for approval through a majority vote.¹⁴ A charter, if approved and filed with the Secretary of State, becomes the basic legal document defining the county's structure and operation. Once a charter becomes effective, it may only be amended or repealed through a majority vote of the electorate.

The process for amending a charter means that provisions of a county charter are difficult to change. Amendment requires not only agreement between Board members on a proposed amendment, but also agreement from the majority of the County's voters. The process also involves the cost of putting a provision on the ballot, which may result in reduced flexibility for the Board on issues addressed by way of charter.

⁸ This distinction arises because a county is a legal subdivision of the state of California existing for the state's convenience of administration of government, and the Legislature has inherent power to prescribe the powers, duties and obligations of counties in exercising governmental functions on behalf of the state. See *Vagim v. Board of Supervisors* (1964) 230 Cal.App.2d 286; see San Benito County Board of Supervisors agenda materials for March 15, 2022, presentation by CSAC legislative staff Geoff Neill & Danielle Bradley regarding Charter Counties.

⁹ *Dibb v. County of San Diego* (1994) 8 Cal. 4th 1200; *San Bernardino County Board of Supervisors v. Monell* (2023) 91 Cal. App. 5th 1248.

¹⁰ *Id.*

¹¹ Gov't Code, § 23701 (“The ordinance shall declare that the public interest requires the election of a charter commission composed of 15 qualified electors of the county, to be elected by the qualified electors of the county, at a general or special election.”)

¹² Gov't Code, § 23705 (“Upon the adoption of such ordinance, or the presentation of such petition, the governing body shall order the holding of a special election for the purpose of electing a charter commission, which special election shall be held on the next established election date not less than 88 days after the adoption of the ordinance or the presentation of the petition to the governing body.”)

¹³ Gov't Code, § 23711 (“As an alternative to the procedure provided for in Sections 23700 through 23710 of this article, the governing body of any county, on its own motion may propose or cause to be proposed or revise or cause to be revised, a proposed charter and submit the proposal for adoption to the voters at either a special election called for that purpose or at any general or special election.”)

¹⁴ Voters may also initiate a process to elect a charter commission to draft a charter, which is a question that is then submitted to the voters. See Gov't Code, § 23702 (“Petitions to propose or revise a charter shall be subject to Article 1 (commencing with Section 9100) of Chapter 2 of Division 9 of the Elections Code.”; see also Gov't Code, § 23707 (“At such election the electors shall vote first on the question “Shall a charter commission be elected to propose or revise a charter?” and secondly, for the candidates for the office of charter commissioner.”)

A county charter may be considered by the voters at either a special election called for that purpose or at any general or special election.¹⁵ Upcoming general elections, include the June 2, 2026 primary election and the November 3, 2026 election.

V. CONCLUSION: COUNTY CHARTERS

Whether or not becoming a charter county would be advantageous to Siskiyou County will depend upon the specific policy goal(s) the Board of Supervisors and the public seek to achieve through adoption of a charter, when weighed against any practical drawbacks¹⁶ or the time and expense associated with the process to adopt or amend a charter.

The options the Board may wish to consider as part of this agenda item, include: 1) that the Board engage in initial discussions on this matter, but provide no further direction at this time; 2) that the Board identify questions related to county charters and direct staff to further investigate; 3) that the Board direct staff to take the necessary steps to prepare for the County to draft a county charter; 4) that the Board direct staff to take the necessary steps to prepare for an election of a charter commission; or 5) that the Board provide other direction to staff.

¹⁵ Gov't Code, § 23711.

¹⁶ In some instances, there may be uncertainty as to whether a matter the Board or members of the public desire to see included in the County's charter is or is not a matter of statewide concern that the County is preempted from addressing. This could result in litigation.