

County Charter Notes

The most typical grant of home rule authority permits counties to adopt structural changes, often called “optional forms,” where county voters select from among several structural options specified by state law.¹

The power to frame and adopt county charters is traditionally granted through a constitutional amendment and confers more extensive powers than optional forms [of] home rule, especially in the areas of taxing authority and service provision. A charter is a select mechanism for achieving a greater degree of the home rule in particular jurisdictions. It is a document that is locally drafted and approved to serve as the county’s “little Constitution,” thereby formalizing the spirit of home rule. Charter government powers typically fall into three operational dimensions; structural, functional and fiscal. Reforms under a charter are often adopted in all three domains, whereas home rule counties without charters have adopted reforms in the structural domain only.²

While charter status can bestow a vast number of reforms, it does not guarantee powers in all three domains; many charter provisions prohibit certain types of reforms (e.g., fiscal) and established powers can be limited further in the construction of specific charters.³

Arizona – Under charter government, the two qualified counties can expand the number of supervisors from five to nine, provide for an elected county executive, create, consolidate, or abolish constitutional officers, and make elected constitutional offices appointive. Qualifications, duties, and compensation of officers are to be established by charter. Additionally, chartered counties may adopt a county sales tax of up to 2 percent. The home rule amendment also includes a unique stipulation: any charter provision that would impose a new tax or provide for appointing constitutional officers must be voted on as a separate issue, distinct from the question of charter adoption. Voters may adopt a charter with or without approving these provisions. Before a charter can be adopted as the organic law of the county, it must be inspected for consistency with state laws and approved by the governor.⁴

¹ (Cowan & Salant, 1999, p. 3)

² (Cowan & Salant, 1999, p. 4)

³ (National Association of Counties, 2008, p. 79)

⁴ (Cowan & Salant, 1999, p. 28)

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| <p>EXHIBIT H -- LocalGov Document consists of 17 pages. Entire Exhibit provided. Meeting Date: 02-18-10</p> |
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In 1992, a voter approved change to the state constitution provided for a charter process for Maricopa and Pima counties. The voters in the two counties did not approve either charter.⁵

California – The California Constitution and the California Government Code set forth procedures for drafting, adopting, amending and repealing a county charter. The process of electing a charter commission to study local government and draft a charter may be initiated by the governing board or citizen petition. In addition, the board may draft a charter and place it on the ballot. If a majority of county voters approves the proposed charter, it must be submitted to the legislature for ratification before it may be codified. The legislature has no authority to alter or amend the document, but must instead approve or reject it in whole. The California legislature has historically accepted all charters.

A charter does not give county officials additional authority regarding enactment of local regulations, revenue-raising abilities, budgetary decisions, or intergovernmental relations.⁶

Colorado – The constitution specifies that chartered counties must provide statutory functions and services. They may additionally perform permissive functions as allowed by general law, if authorized by charter. A charter must specify which offices are elective and which appointive, the terms, qualifications, and compensation of office holders, and the duties assigned to each. Although charter counties may delegate responsibility for mandated functions to officers other than those designed by general law, all general law duties must be assigned to a specific office. Colorado law effectively limits charter counties to those powers and functions allowed general law counties, emphasizing the “arm-of-the-state” status of all Colorado counties.

Charter counties are required to follow general law provisions for budgeting and appropriations, taxation, and enacting legislation. The powers of initiative, referendum, and recall are inviolate and must be provided for in all charters. Amendments may be proposed by citizen petition or board resolution, and must be approved by the electorate; action to repeal a charter can be initiated if 15 percent of registered voters sign a petition requesting the question be placed on the ballot.⁷

⁵ (National Association of Counties, 2008, p. 28)

⁶ (Cowan & Salant, 1999, p. 33)

⁷ (Cowan & Salant, 1999, pp. 38-39)

Idaho – [V]oters ratified a 1994 constitutional amendment that permitted state legislators to offer alternatives to the traditional, three-member commission system of county government. Although still bound by state law with regard to fiscal and functional matters, counties now have a variety of structural forms from which to choose.

State law sets out requirements for drafting and adopting a county charter. The ballot question to elect a charter committee, which may be proposed by resolution or initiative, must include the anticipated costs and revenue sources that will be used to finance the committee.

A charter is required to provide for the election of the governing body, specifically the number of members, their terms and qualifications, the date and manner of elections, and its powers and duties.⁸

Oregon – In 1958, voters approved an amendment providing for “the exercise by the county of authority over matters of county concern.” This legislation empowered county voters to adopt, amend, revise or repeal a charter for the purposes of restructuring county government. Excepting judges and district attorneys, charter counties could “prescribe the organization of county government ... and provide for the number, election or appointment, qualifications, tenure, compensation, and powers and duties of such officers as the county deems necessary.” The amendment also specifically forbids county charters from taking away initiative and referendum powers granted elsewhere in the constitution.

In 1973 the Oregon State Legislature, overburdened with requests for special local legislation, approved a measure to grant general ordinance powers to all counties “over matters of county concern.” Ordinances may be proposed by the governing body or by initiative petition. This legislation in effect grants home rule authority to all counties. This statutory grant of power differs from the 1958 home rule amendment in that it does not allow for the complete discretionary reorganization of county government; only charter counties may create, abolish, or consolidate county offices. Charter counties also have additional flexibility in financing improvements. However, constitutional and statutory law takes precedence over charter provisions or local government legislation.⁹

West - County charters in the West address structural reform in the greatest detail. This is the area of governance where charters can most diverge from general law. Although most charters maintain the traditional form of

⁸ (Cowan & Salant, 1999, pp. 48-49)

⁹ (Cowan & Salant, 1999, pp. 68-69)

Government, the size of the governing body is increased in almost each case. Fiscal matters are covered at length as well, but few charters convey new or increased taxing authority to the county.

County functions and services are less frequently addressed. The authority to enter into intergovernmental agreements is generally the most common, State law, for the most part, controls county functions.

Stylistically, most charters follow the model charter established by the National Civic League in 1950 (and updated in 1992).¹⁰

Bibliography

Cowan, D., & Salant, T. J. (1999). *County Charter Government in the West*. Tucson: University of Arizona.

National Association of Counties. (2008). *County Government Structure: A State by State Report*. Washington, DC: National Association of Counties.

Prepared by the Nevada Association of Counties

¹⁰ (Cowan & Salant, 1999, p. 139)

County Government in the West

| State | Charters | # of Counties | General Law | Chartered | Other |
|------------|----------|---------------|-------------|-----------|-----------------------|
| Alaska | Yes | 18 | 8 | 6 | 4 – Unified Home Rule |
| Arizona | Yes | 15 | 15 | 0 | 0 |
| California | Yes | 58 | 44 | 13 | 1 - Consolidated |
| Colorado | Yes | 62 | 58 | 2 | 2 - Consolidated |
| Hawaii | Yes | 4 | 0 | 4 | 0 |
| Idaho | Yes | 44 | 44 | 0 | 0 |
| Montana | Yes | 56 | 53 | 1 | 2-Consolidated |
| Nevada | No | 17 | 16 | 0 | 1-Consolidated |
| New Mexico | Yes | 33 | 32 | 1 | 0 |
| Oregon | Yes | 36 | 27 | 9 | 0 |
| Utah | Yes | 29 | 29 | 0 | 0 |
| Washington | Yes | 39 | 33 | 6 | 0 |
| Wyoming | No | 23 | 23 | 0 | 0 |

Source: National Association of Counties. (2008). *County Government Structure: A State by State Report*. Washington, DC: National Association of Counties

Table 2-1

GENERAL LAW VS. CHARTER PROVISIONS in ALASKA

| Provision | General Law | Charter |
|------------------------------|--|--|
| Form of government | Mayor-assembly; may adopt manager plan | Optional |
| Number on assembly | By incorporation petition; may be changed by ordinance | Optional |
| Terms | 3 yrs.; may change to 4 by ordinance | 3 yrs; may change to 4 by charter or ordinance |
| Qualifications | Determined by state law | Same |
| Duties | Determined by state law | Optional |
| Compensation | Assembly | Optional |
| Vacancies filled | Determined by state law | Optional |
| Executive officer | Mayor | Same |
| Term | 3 yrs.; may change to 4 by ordinance | Same; may also change to 4 by charter |
| Duties | Determined by state law | Same |
| Vacancies filled | Determined by state law | Same |
| Executive veto | Yes; by statute | Optional |
| Appointed officers | Clerk, treasurer, attorney | Same |
| Delegation of duties | Determined by state law | Optional |
| County administrator/manager | Optional | Optional |
| Functions and services | Type, level, and manner of provision by state | Same |
| Law-making authority | Police and corporate | Matters not prohibited by state law or charter |
| Taxation | Broad authority to levy property tax; sales, use, and excise taxes; (sales and use taxes require voter approval) | Same; authority may be limited by charter |
| Debt limit | None | None |
| Elections | Nonpartisan; by district, at large, or combination | Nonpartisan; optional |

Table 2-2

GENERAL LAW VS. CHARTER PROVISIONS in ARIZONA

| Provision | General Law | Charter |
|-------------------------------|--|--|
| Form of government | Commission | Optional |
| Number on board | 3 or 5 | 5 to 9 |
| Terms | 4 yrs | Optional |
| Qualifications | Determined by state law | Optional |
| Duties | Determined by state law | Optional |
| Compensation | Determined by state law | Optional |
| Vacancies filled | Determined by state law | Optional |
| Elected officers | Assessor, county attorney, recorder, sheriff, superintendent of schools, treasurer | Optional |
| Delegation of duties | Determined by state law | Optional |
| County administrator/ manager | Optional | Optional |
| Functions and services | Type, level, and provision determined by state law | Type and level determined by state law; manner of provision optional |
| Law-making authority | Police and corporate | Same |
| Taxation | Optional one-half cent sales tax; property tax limit | Same; may impose additional 2 percent sales tax |
| Debt limit | 6% of assessed valuation | Same |
| Elections | Partisan; by district | Optional |

Table 2-3

GENERAL LAW VS. CHARTER PROVISIONS in CALIFORNIA

| Provision | General Law | Charter |
|------------------------------|--|--|
| Form of government | Commission or commission-manager | Optional |
| Number on board | 5 | Optional; at least 5 |
| Terms | 4 yrs.; staggered | Optional |
| Qualifications | Determined by state law | Same |
| Duties | Determined by state law | Optional |
| Compensation | Board | Optional |
| Vacancies filled | Determined by state law; Governor | Optional |
| Elected officers | Assessor, district attorney, sheriff; others optional | Assessor, district attorney, sheriff; others optional |
| Delegation of duties | Determined by state law | Optional |
| County administrator/manager | Optional | Optional |
| Functions and services | Type, level, and manner of provision determined by state | Type and level determined by state; manner of provision optional |
| Law-making authority | Limited to police and corporate matters | Same |
| Taxation | May impose any tax authorized by law with voter approval; property taxes limited | Same |
| Debt limit | 5% of assessed valuation; may be increased to 15% for roads and water facilities | Same |
| Elections | Nonpartisan; by district | Nonpartisan; optional |

Table 2-4

GENERAL LAW VS. CHARTER PROVISIONS in COLORADO

| Provision | General Law | Charter |
|------------------------------|---|--|
| Form of government | Commission | Optional |
| Number on board | 3 if pop < 70,000; may increase to 5 if pop. > 70,000 | Optional |
| Terms | 4 yrs; staggered; 2 consecutive term limit | Optional |
| Qualifications | Determined by state law | Optional |
| Duties | Determined by state law | Same |
| Compensation | Determined by state law | Optional |
| Vacancies filled | Determined by state law | Optional |
| Elected officers | Assessor, clerk/recorder, coroner, district attorney, sheriff, surveyor, treasurer/tax collector, superintendent of schools | Optional |
| Delegation of duties | Determined by state law | Optional |
| County administrator/manager | Optional | Optional |
| Functions and services | Type, level, and provision determined by state | Type and level determined by state; manner of provision optional |
| Law-making authority | Police and corporate | Expanded, but limited by law |
| Taxation | Voter approval required for optional 2 percent lodging tax | Same |
| Debt limit | 1.5 % of assessed valuation | 3 % of assessed valuation |
| Elections | Partisan; at-large, by district or combination | Optional |

Table 2-5

COUNTY GOVERNMENT in HAWAII

| Provision | General Law/Charter |
|------------------------------|--|
| Form of government | Optional |
| Number on board | Optional |
| Terms | Optional |
| Qualifications | Optional |
| Duties | Optional |
| Compensation | Optional |
| Vacancies filled | Optional |
| Elected officers | Optional |
| Delegation of duties | Optional |
| County administrator/manager | Optional |
| Functions and services | May provide municipal-type services; state provides many traditional county services |
| Law-making authority | Police and corporate |
| Taxation | No sales tax; optional excise and use taxes of up to 4 percent each; optional transient room tax of 7.25 percent |
| Debt limit | 15 percent of assessed valuation |
| Elections | Optional |

Table 2-6

GENERAL LAW VS. CHARTER PROVISIONS in IDAHO

| Provision | General Law | Charter |
|------------------------------|--|--|
| Form of government | Commission | Optional |
| Number on board | 3 | 3 - 7 |
| Terms | 4 yrs; staggered; limited to 2 consecutive terms | Optional |
| Qualifications | Determined by state law | Optional |
| Duties | Determined by state law | Optional |
| Compensation | Determined by Board of Supervisors | Optional |
| Vacancies filled | Determined by state law | Optional |
| Elected officers | Assessor, clerk of the district court, coroner, prosecuting attorney, sheriff, treasurer | Optional |
| Delegation of duties | Determined by state law | Optional |
| County administrator/manager | Not available | Optional |
| Functions and services | Type, level, and provision determined by state law | Type and level determined by state law; manner of provision optional |
| Law-making authority | Police and corporate | Same |
| Taxation | Optional hotel and alcohol taxes in "resort" areas | Same |
| Debt limit | None | Same |
| Elections | Partisan; by district | Optional |

Table 2-7

GENERAL LAW VS. CHARTER PROVISIONS in MONTANA

| Provision | General Law | Charter |
|------------------------------|--|--|
| Form of government | Commission; commission-manager; commission-executive; town meeting; commission-chairman; charter | Same |
| Number on Board | Optional; 3 or more | Same |
| Terms | 4 - 6 yrs., depending on form; staggered | Optional |
| Qualifications | Determined by state law | Optional |
| Duties | Determined by state law | Optional |
| Compensation | Determined by state law | Optional |
| Vacancies filled | Determined by state law | Optional |
| Elected officers | Optional: may include assessor, clerk/recorder, coroner, county attorney, sheriff, supt. of schools, surveyor, treasurer/tax collector | Optional |
| Delegation of duties | Determined by state law | Optional |
| County administrator/manager | Optional appointed manager or elected executive | Optional |
| Functions and services | Type, level, and manner of provision determined by state | Type and level determined by state; manner of provision optional |
| Law-making authority | Local concerns only; police and corporate | Expanded to include matters not prohibited by law |
| Taxation | May not impose sales or income taxes; mill levy set by law | Same |
| Debt limit | 23% of assessed valuation | Same |
| Elections | Optional partisan or nonpartisan; at-large, by district, or combination | Same |

Table 2-8

General Law Provisions in Nevada

| Provision | General Law |
|------------------------------|---|
| Form of government | Commission |
| Number on board | 3, 5, or 7; determined by pop. |
| Terms | 4yrs. |
| Qualifications | Determined by state law |
| Duties | Determined by state law |
| Compensation | Determined by state law |
| Vacancies filled | Determined by state law; Governor |
| Elected officers | Assessor, clerk, district attorney, recorder, sheriff, treasurer |
| Delegation of duties | Determined by state law |
| County administrator/manager | Optional |
| Functions and services | State law and some discretion |
| Law-making authority | Police and corporate |
| Taxation | Optional taxes for transportation, infrastructure, flood control, tourism |
| Debt limit | 10% of assessed valuation |
| Elections | Partisan; by district or at large |

Table 2-9

GENERAL LAW VS. CHARTER PROVISIONS in NEW MEXICO

| Provision | General Law | Charter |
|------------------------------|--|----------|
| Form of government | Commission | Optional |
| Number on board | 3; may be increased to 5 | Optional |
| Terms | 4 yrs | Optional |
| Qualifications | Determined by state law | Optional |
| Duties | Determined by state law | Optional |
| Compensation | Determined by state law | Optional |
| Vacancies filled | Determined by state law | Optional |
| Elected officers | Assessor, clerk, probate judge, sheriff, treasurer | Optional |
| Delegation of duties | Determined by state law | Optional |
| County administrator/manager | Optional | Optional |
| Functions and services | Type, level, and provision determined by state law | Same |
| Ordinance powers | Police and corporate; all powers granted to municipalities | Same |
| Taxation | Optional gross receipts tax of up to 3/8 of 1% | Same |
| Debt limit | 4% of assessed valuation | Same |
| Elections | Partisan; by district | Optional |

Table 2-10

GENERAL LAW VS. CHARTER PROVISIONS in OREGON

| Provision | General Law | Charter |
|------------------------------|--|--|
| Form of government | Commission or county court | Optional |
| Number on board | 3 | Optional |
| Terms | 4 yrs. | Optional |
| Qualifications | Determined by state law | Optional |
| Duties | Determined by state law | Optional |
| Compensation | Determined by state law | Same |
| Vacancies filled | Determined by state law | Same |
| Elected officers | Assessor, auditor, clerk, sheriff, treasurer | Optional |
| Delegation of duties | Determined by state law | Optional |
| County administrator/manager | Optional with commission form | Optional |
| Functions and services | Type, level, and manner of provision determined by state | Type and level determined by state; manner of provision optional |
| Law-making authority | All matters deemed to be of county concern | Same |
| Taxation | Voter approval required for new taxes; local option sales tax | Same |
| Debt limit | 2 % of assessed valuation | Same |
| Elections | Partisan (legislative body only); nominated by district; elected at large Nonpartisan for officers | Optional |

Table 2-11

GENERAL LAW VS. OPTIONAL FORMS PROVISIONS in UTAH

| Provision | General Law | Optional Forms |
|-------------------------------|--|---|
| Form of government | Commission | General county (modified), urban county, community council, city-county consolidation |
| Number on board | 3 | 5 or more (community council); others 3 or more |
| Terms | 4 yrs | Optional |
| Qualifications | Determined by state law | Optional |
| Duties | Determined by state law | Optional |
| Compensation | Determined by state law | Optional |
| Vacancies filled | Determined by state law | Optional |
| Elected officers | Assessor, auditor, clerk, county attorney, recorder, sheriff, surveyor, treasurer | Optional |
| Delegation of duties | Determined by state law | Optional |
| County administrator/ manager | Not available | Optional; executive also |
| Functions and services | Type, level, and provision determined by state law | Same |
| Law-making authority | Police and corporate | Same |
| Taxation | Optional sales and use up to 1%, additional optional sales and use of .25%; optional transient room and rental vehicle | Same |
| Debt limit | 2% of assessed valuation | Same |
| Elections | Partisan; at large | Optional |

Table 2-13

COUNTY GOVERNMENT IN WYOMING

| Provision | General Law |
|------------------------------|--|
| Form of government | Commission |
| Number on board | 3 - 5 |
| Terms | 4 yrs; staggered |
| Qualifications | Determined by state law |
| Duties | Determined by state law |
| Compensation | Determined by state law |
| Vacancies filled | Determined by state law |
| Elected officers | Assessor, clerk of the district court, county clerk, county attorney, prosecuting attorney, sheriff, and treasurer |
| Delegation of duties | Determined by state law |
| County administrator/manager | Not available |
| Functions and services | Type, level, and manner of provision determined by state law |
| Law-making authority | Police and corporate |
| Taxation | Optional 1 percent sales tax on goods and services dedicated to general revenue; optional special-purpose 1 percent sales tax; optional 4 percent transient room tax |
| Debt limit | 2% of assessed valuation |
| Elections | Partisan; by district for 3-member commission; optional for 5-member |