CHARTER

of the

County of Los Angeles

Annotated Edition

Includes Amendments
Ratified by the Voters
through March 5, 2002

CHARTER

OF THE

COUNTY OF LOS ANGELES

ANNOTATED EDITION

Includes Amendments Ratified

by the Voters Through

March 5, 2002

PROPOSED BY THE BOARD OF FREEHOLDERS	SEPTEMBER 24, 1912
RATIFIED BY THE VOTERS OF THE COUNTY	NOVEMBER 5, 1912
FILED WITH THE SECRETARY OF STATE	JANUARY 29, 1913
IN EFFECT	JUNE 2, 1913

AUTHORIZED BY THE BOARD OF SUPERVISORS

GLORIA MOLINA
First District

ZEV YAROSLAVSKY
Third District

MARK RIDLEY-THOMAS
Second District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

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LOS ANGELES COUNTY

CHARTER

We, the people of the County of Los Angeles, do ordain and establish for its government this Charter.

ARTICLE I.

Name and Rights of the County

Section 1. The County of Los Angeles, as it now exists, is a body corporate and politic,[1] and as such has all the powers specified by the constitution and laws of the State of California,[2] and by this Charter,[3] and such other powers as are necessarily implied.

Section 2. The powers mentioned in the preceding Section can be exercised only by a Board of Supervisors,[4] or by agents and officers acting under their authority or by authority of law of this Charter.

Section 3. The corporate name shall be "County of Los Angeles," which must be thus designated in all actions and proceedings touching its corporate rights, properties and duties. Its boundaries and County seat shall remain the same as they now are, until otherwise changed by law.

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[1] *The County is not a corporation, nor even a municipal corporation. Strictly speaking, a county is not a corporation at all. It is a legal subdivision of a state charged with governmental powers. Estate of Miller, 5 Cal.2d 588, 55 P.2d 491 (1936); Whelan v. Bailey, 1 Cal. App.2d 334, 36 P.2d 709 (1934). But see Sacramento v. Chambers, 33 Cal. App. 142, 164 P. 613 (1917), to the effect that a county is a quasi corporation. (Gov. Code, Sec. 23003.) A county is a legal department of the state. Watson v. Los Altos School District, 149 Cal. App.2d 768 at 772, 308 P.2d 872 (1957).*

[2] *Gov. Code, Sec. 23004.*

[3] *The Charter may be called the "organic law of the County." People v. McAleer, 33 Cal. App. 135, 164 P. 425 (1917).*

[4] *Gov. Code, Sec. 23005.*

ARTICLE II.

Board of Supervisors

Section 4. The County of Los Angeles shall have a Board of Supervisors consisting of five members, each of whom must be an elector of the district which he represents, must reside therein during his incumbency, must have been such an elector for at least one year immediately preceding his election,[5] and shall be elected by such district. Their terms of office shall be four years, and each shall hold until his successor is elected and qualified. No person while a member of the Board of Supervisors shall receive any compensation, in addition to that provided for by this Section, for services rendered to any public or governmental entity. They shall each receive as compensation for their services a salary, payable monthly from the County Treasury, which shall be the same as that now or hereafter prescribed by law for a judge of the Superior Court in and for the County of Los Angeles, except that retirement benefits shall be those now or hereafter provided by law for officers and employees of the County of Los Angeles.[6] They shall devote all their time during business hours to the faithful service of the public.

[5] *Smith v. Evans, 42 Cal. App.3d 154 (1974) hold a one year residency requirement in a city charter to be in violation of the equal protection clause.*

[6] *Article XI, Sec. 4 (former Sec. 7 1/2) of the State Constitution, fairly constructed simply requires a county charter to make provisions for compensation of supervisors; it does not require nor state explicitly that such compensation shall be set forth and fixed in charter itself. Brown v. Francisco,123 Cal. App.2d 413, 266 P.2d 951 (1954).*

Section 4. (Continued)

Notwithstanding any other provisions of this Charter, this amendment shall be operative as to incumbent members of said Board during their respective terms.[7] If any provision of this amendment is held inoperative as to incumbent members during their current terms, then no change made by this amendment shall be operative as to incumbent members during their current terms, but in all other respects this amendment shall be operative to the extent legally possible.[8]

No person shall be elected and qualified for the office of member of the Board of Supervisors if such person has been elected or served in such office for three consecutive terms, commencing with a term of office which begins in December, 2002. The limitation on terms shall not apply to any unexpired term to which a person is elected or appointed if the remainder of the terms is less than one-half of the full term of office.[9]

Section 5. The County is hereby divided into five supervisorial districts, the boundaries of which shall be and remain as they are now or until otherwise changed as provided in this Charter.

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[7] *A charter amendment relating to salaries of supervisors held to affect incumbents as it applied to such officers and no exception was made as to incumbents. Mapes v. Williams, 2 Cal.2d 177, 25 P.2d 896, 39 P.2d 421 (1934).*

Section 4 is limited by Sec. 56. All elective county officers whose terms commenced before the charter went into effect should during such terms continue to draw the salaries which attached to such officers under the general laws of the state. Pridham v. Lewis, 30 Cal. App. 395, 158 P. 333 (1916).

[8] *1952 Amendment. Amended by Stats. 1953, Resolution Chap. 5, P. 3781 at P. 3783.*

[9] *2002 Addition. Added by Stats. 2002, Charter Chapter Nos. 10 and 11.*

Section 6. At each general election at which the Governor is to be elected, and every four years thereafter, supervisors shall be elected from the First and Third Supervisorial districts, whose terms shall be four years, beginning at noon the first Monday in December following their election, and ending at noon on the first Monday in December, four years thereafter; provided that each shall hold office until his successor is elected and qualified.

At each general election at which the office of President appears on the ballot, and every four years thereafter, supervisors shall be elected from the Second, Fourth and Fifth districts, whose terms shall be four years, beginning at noon on the first Monday in December following their election, and ending at noon on the first Monday in December, four years thereafter; provided that each shall hold office until his successor is elected and qualified.[10]

Section 7. The Board of Supervisors may, by a two-thirds' vote of its members, change the boundaries of any supervisorial district. No such boundaries shall ever be so changed as to affect the incumbency in office of any supervisor. Any change in the boundaries of any supervisorial district must be made within one year after a general election.[11]

Section 8. Whenever a vacancy occurs in the Board of Supervisors the Governor shall fill such vacancy, and the appointee shall hold office until the election and qualification of his successor. In such case, a Supervisor shall be elected at the next general election, to fill the vacancy for the unexpired term, unless such term expires on the first Monday in December succeeding said election.

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[10] *1984 Amendment. Proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984, and was given Charter Chapter No. 20*

[11] *Note also Sec. 25001.1 of the Government Code.*

The one man one vote principle applies to supervisorial districts. Avery v. Midland County, 390 U.S. 474, 88 S. Ct. 1114, 20 L.Ed.2d 45 (1968).

While the factors of " * *(a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness of territory, and (d) community of interests of the districts," should be considered, none of these will excuse or justify a departure from mathematical exactness in population. In Kirkpatrick v. Preisler, 394 U.S. 526, 89 S. Ct. 1225 , 22 L.Ed.2d 519 (1969).*

As to apportionment on the basis of registered voters, see Calderon v. City of Los Angeles, 4 Cal.3d 251, 93 Cal. Rptr. 361, 481 P.2d (1971).

See also Weinstein. "The Effect of the Federal Re-Apportionment Decisions on Counties and other Forms of Municipal Government," 65 Columbia Law Review 21 (Jan. 1965).

Section 9. The Board of Supervisors shall elect a Chairman, who shall preside at all meetings. In case of his absence or inability to act, the members present must, by an order entered of record, select one of their number to act as Chairman pro tem. Any member of the Board may administer oaths, when necessary in the performance of his official duties. A majority of the members shall constitute a quorum, and no act of the Board shall be valid or binding unless a majority of the members concur.

ARTICLE III.

General Powers of the Board of Supervisors[12]

Section 10. The Board of Supervisors shall have all the jurisdiction and power which are now or which may hereafter be granted by the constitution[13] and laws of the State of California or by this Charter.

Section 11. It shall be the duty of the Board of Supervisors: (1) To appoint all County officers other than elective officers, and all officers, assistants, deputies, clerks, attaches[14] and employees whose appointment is not provided for by this Charter.[15]

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[12] *"A county may by charter impose duties upon supervisors and other county officers in addition to those prescribed by general laws but not inconsistent or in conflict therewith. The power of the legislature to enact general laws prescribing the duties of such officers is not affected or impaired by the constitutional provisions authorizing counties to frame and adopt charters for their own government." Wilkinson v. Lund, 102 Cal. App. 767, 283 P. 385 (1929).*

[13] *Article XI Sec. 7 of the State Constitution.*

A police regulation must be by ordinance, not a resolution. City of Sausalito v. County of Marin, 12 Cal. App.3d 550 at 565-566, 90 Cal. Rptr. 843 at 853 (1970).

A county police ordinance applies only to unincorporated territory. Stirling v. Board of Supervisors , 48 Cal. App.3d 184; 121 Cal. Rptr. 435 (1975); Glasser v. Municipal Court, Superior Court of County of Los Angeles, No. 407228, reversed on other grounds, 27 Cal. App.2d 455, 81 P.2d 260 (1938).

[14] *The Secretary of the Superior Court is not a County officer or attaché of the county within the purview of Sec. 4 (formerly Sec. 7½) of the Article XI of the Constitution or Sec. 56 of the Charter. Therefore compensation can be changed by legislative act during the term appointment. Noel v. Lewis, 35 Cal. App. 658, 170 P. 857 (1917).*

[15] *The Board of Supervisors being authorized under the Charter, Sec. 11, to make provision for appointment of probation officers, and such appointment having been provided for, the general laws of the state cease to operate as to that matter. Gibson v. Civil Service Commission, 27 Cal. App. 396, 150 P. 78 (1915).*

Section 11. (Continued)

Except in the cases of appointees to the unclassified service, all appointments by the Board shall be from the eligible civil service list. The Board shall provide, by ordinance[16], for the compensation[17] of elective officers and of its appointees[18], unless such compensation is otherwise fixed by this Charter.[19]

(2) Repealed.[20]

(3) To provide, by ordinance,[21] for the number of assistants, deputies, clerks,[22] attaches[23] and other persons to be employed from time to time in the several offices and institutions of the County, and for their compensation and the times at which they shall be appointed.

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[16] The absence in the Charter of provisions fixing a time for the taking effect of ordinances or relative to the initiative and referendum makes the general law provisions of Gov. Code Secs. 25120-25125 effective in these matters. Cline v. Lewis, 175 Cal. 315, 165 P. 915 (1917).

[17] The salary of the Sheriff, having been fixed pursuant to this Section, the general law provisions relative to keeping for his own use fees received by the Sheriff for transporting persons to state prisons and asylums are superseded, and those fees though collected from the state, are required, pursuant to Sec. 15 of the Charter, to be paid into the County Treasury. County of Los Angeles v. Cline, 37 Cal. App. 607, 174 P. 73 (1918).

[18] The charter amendment of Butte County attempting to regulate the compensation of assistants, deputies and clerk was in violation of Sec. 4 (former Sub. 5 of Sec. 7½) of Article XI of the Constitution, which provides that this power is vested in the Board of Supervisors, Morton v. Richards, 134 Cal. App. 665, 26 P.2d 320 (1933).

[19] A charter provision fixing the salary of an officer takes precedence over a general law provision fixing the salary for the same officer. County of Tehama v. Winter, 56 Cal. App. 341, 205 P. 97 (1922).

[20] Repeal proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984.

[21] When Board of Supervisors, in enacting an ordinance providing for probation officers and fixing the compensation, makes no mention of the manner in which the appointment shall be made, the general laws of the state govern the matter. Anderson v. Lewis, Cal. App. 24, 154 P. 287 (1915).

[22] County ordinances enacted pursuant to this Charter authority provided for the appointment of deputy County clerks without compensation to be parcelled out among the deputies of other County departments in order to facilitate the administration of County business and which permit a deputy or a clerk in one County office to hold an appointment under another County office, have not been nullified. Markowitz v. Carpenter, 94 Cal. App.2d 667, 211 P.2d 617 (1949).

[23] See note 12 supra.

Section 11. (Continued)

(4) To provide, by ordinance, for the creation of offices[24] other than those required by the constitution and laws of the State, and for the appointment of persons to fill the same, and to fix their compensation. The Board of Supervisors may also, by ordinance, consolidate or separate offices provided for in this Charter or by law.[25]

(5) To require, if deemed expedient, any County or township officer, or employee, before or after entering upon the duties of his office, or service, to give bond for the faithful performance thereof, in such penal sums as may be fixed by the Board.

(6) To provide, publish and enforce, a complete code of rules, not inconsistent with general laws[26] or this Charter, prescribing in detail the duties, and the systems of office and institutional management, accounts and reports for each of the offices, institutions and departments of the County.

(7) No ordinance controlling rents of residential rental units shall be enacted to control the rent of any rental unit located in a structure for which a certificate of occupancy was issued after November 1, 1980. This Section shall be in effect until November 1, 2000 upon which date it shall expire.[27]

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[24] There is no requirement that an ordinance shall relate to but one subject or that its title should disclose all its purposes. Thus, legislation creating the office of director of public health and sanitation is not invalid because it is included in the Administrative Code of the County of San Diego. Lesem v. Getty, 23 Cal. App.2d 57, 72 P.2d 183 (1937).

[25] 1966 Amendment. Amended by Stats. 1967, Resolution Chapter 6.

[26] Under this Section and the provisions of the Statutes of 1933, page 2005, Sec. 6, the Board of Supervisors had authority to enact ordinance providing for an affidavit by an applicant for relief. People v. Ziady, 8 Cal.2d 149, 64 P.2d 425 (1937).

[27] 1980 Addition. Proposed by the Board of Supervisors August 19, 1980, ratified at special election November 4, 1980, accepted by and filed with Secretary of State June 8, 1981, published Stats. 1981, Charter Chapter No. 19.

ARTICLE IV.

County Officers Other Than Supervisors

Section 12. The elective County officers other than members of the Board of Supervisors shall be: Sheriff[28], District Attorney[29] and Assessor.[30]

No person shall be elected and qualified for the office of Sheriff, District Attorney or Assessor if such a person has been elected or served in such office for three consecutive terms, commencing with a term of office which begins in December 2002. The limitation on terms shall not apply to any unexpired term to which a person is elected or appointed if the remainder of the terms is less than one-half of the full term of office.[31]

Section 13. At each general election at which the office of President appears on the ballot, and every four years thereafter, a District Attorney shall be elected, whose term shall be four years, beginning at noon on the first Monday in December following his election, and ending at noon on the first Monday in December, four years thereafter.

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[28] *See Gov. Code Secs. 26600-26749*

[29] *See Gov. Code Secs. 26500-26505.*

It is the duty of the District Attorney of Los Angeles County to abate, when directed by the Board of Supervisors, that which constitutes a public nuisance with the Red Light Abatement Act (Stats. 1913, P. 20, Sec. 1-3, although the County Charter invests County Counsel with "exclusive charge and control of all civil actions and proceedings in which the County or any officer thereof is concerned or is a party.") (Gov. Code Sec. 26528; Code Civ. Proc. 731.)

When a mandatory duty to abate a nuisance is imposed upon a District Attorney by a statute leaving him no discretion to exercise, mandamus is the proper remedy to compel him to institute proceedings. Board of Supervisors v. Simpson, 36 Cal.2d 671, 227 P.2d 14 (1951).

[30] *For duties of assessor see Chapter 8, consisting of Secs 27420 and 27421 of Part 3 of Division 2 of Title 3 of the Government Code, and 20811 of the Education Code. The latter Section was held valid in Board of Education v. Watson, 63 Cal.2d 829, 48 Cal. Rptr. 481, 409 P.2d 481 (1966).*

Note, also, Section 3100.6 of the Government Code permitting the Board of Supervisors to contract with and employ legal counsel to assist the assessor in cases in which the County Counsel would have a conflict of interest.

[31] *2002 Addition. Added by Stats. 2002, Charter Chapter No. 10*

Note, this provision was held unconstitutional as applied to the elective office of the Sheriff in The People of the State of California on the Relation of Leroy D. Baca v. County of Los Angeles, Board of Supervisors of Los Angeles County (Los Angeles Superior Court Case No. BC 299486). (2004)

Note, this provision was declared null and void and of no legal effect as applied to the elective offices of District Attorney and Assessor in The People of the State of California on the Relation of Steve Cooley, Los Angeles County District Attorney; and Rick Auerbach, Los Angeles County Assessor (Los Angeles Superior Court Case No. BC 343769). (2006)

Section 13. (Continued)

At each general election at which the Governor is to be elected, and every four years thereafter, a Sheriff and Assessor shall be elected, whose terms shall be four years, beginning at noon on the first Monday in December following their election, and ending at noon on the first Monday in December four years thereafter. All elective County officers shall hold office until their successors are elected and qualified.[32]

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[32] *This Section was controlled by a clause in Sec. 4 (former Sec. 7 1/2) of Art. XI of the Constitution providing:*

> *"All elective officers of counties. . .shall be nominated and elected in the manner provided by general laws for the nomination and election of such officers."*

Hence this Section is partially superseded by Constitution Art. II, Sec. 2 3/4, enacted Nov. 2, 1926, and providing for the election of candidates for judicial, school, county, township, or other nonpartisan officers, who receive a majority on all ballots cast for candidates for such office at a primary election. Kerr v. Russell, 209 Cal. 36, 285 P. 311 (1930).

1984 amendment proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984, and was given Charter Chapter No. 20.

Section 14. The appointive County officers shall be:[33]

Auditor[34]
Board of Education,
Members of[35]
Board of Law Library
Trustees, Members of[36]
Civil Service Commission, Members of[37]
Coroner[38]
County Clerk[39]
County Counsel[40]

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[33] *An appointment to the office must be made by the Board of Supervisors from an eligible civil service list as required by Subdivision (1), Sec. 11 of Article III of this Charter. People v. McAleer, 33 Cal. App. 135, 164 P. 425 (1917).*

[34] *For duties, see Gov. Code Secs. 26900-26922, 29740-29749, 29803-29804.*

[35] *For general duties, see Education Code Secs. 651-652*

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[36] *For duties, see Business and Professions Code Secs. 6300-6307*

[37] *For duties, see Gov. Code Secs. 31110-31113.*

[38] *For duties, See Gov. Code Secs. 27460-27531.*

[39] *For duties, see Gov. Code Secs. 26800-26806.*

The County Clerk's duty to certify a petition for election of freeholders is purely ministerial and he must certify the petition to the Board of Supervisors if the required number of qualified electors have signed the petition. Chester v. Hall, 55 Cal. App. 611, 204 P. 237 (1921).

The surety of the County Clerk was liable under the provisions of the bond for the dereliction of activities of the County Clerk when he was acting as ex officio clerk of the Superior Court. Union Bank & Trust Co. v. County of Los Angeles, 11 Cal.2d 675, 81 P.2d 919 (1938). (See Gov. Code Sec. 26800).

Where the County Clerk is ex officio the Clerk of the Board of Supervisors there is nothing which prohibits the separation of the two offices during the term for which the County Clerk is elected since the ex officio office attached to that of County Clerk at the time of election is not also an elected office, there is no reason why the administrative code of the County may not provide for segregation of the two offices and for appointment of the Clerk of the Board of Supervisors by the County executive. 22 Ops. Atty. Gen. 177 (1953).

In this County the County Clerk is not ex officio the Clerk of the Board of Supervisors. Government Code Sec. 25100.5 last amended by Stats. 1972 Chap. 326.

[40] *For duties see Gov. Code Secs. 27640-27644, 26529, 3100.6, 31529; Health & Safety Code Sec. 34279.*

The County Charter may properly provide for the powers and duties of its officers, and may do this without limitation by general law. Hence it may provide that the County Counsel shall act as attorney for its public administrator, who is a public officer exercising governmental functions. Estate of Miller, 5 Cal.2d 588, 55 P.2d 491 (1936).

See Note 23 supra.

Section 14. (Continued)

Fish and Game Warden[41]
Health Officer[42]
Horticultural Commissioner[43]
License Collector[44]
Livestock Inspector[45]
Probation Committee, Members of[46]
Probation Officer[47]
Public Administrator[48]

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[41] For duties, see Fish and Game Code Secs. 878, 879.

[42] For duties, see Health and Safety Code Secs. 491-493; Gov. Code Sec. 31530

[43] For duties, see Agricultural Code Secs. 2271-2281. Sec. 2322 of the former Political Code created the office of horticultural commissioner. When the 1933 Agricultural Code was adopted, Stats. 1933, Chap. 25 P. 60, Sec. 50 of the 1933 code changed the name to "Agricultural Commissioner."

[44] "The Tax Collector is ex officio License-Collector, and as License-Collector shall collect all County licenses and perform the duties prescribed by law and by the ordinances of the Board of Supervisors." Gov. Code Sec. 27400.

[45] For duties, see Agricultural Code, Secs. 2341-2344. Sec. 68 of the 1933 Agricultural Code prior to 1965 provided that a livestock inspector may be appointed by the Board of Supervisors. Sec. 24000 of the Government Code included a livestock inspector in its list of County officers. By Stats. 1965, Chap. 148, P. 1101 the Legislature substituted County veterinarian in both Secs. By inadvertence a later statute in that same session, Chapter 1271 P. 3145 restored "livestock inspector" in Sec. 24000 of the Government Code and that designation was retained when the Section was amended by Stats. 1971, Chap. 211, P. 275 at 276. By Stats. 1972, Chap. 618 Sec. 24000 again was amended to restore "County veterinarian."

[46] For duties, see Welfare and Institutions Code Sec. 543

[47] For duties, see Welfare and Institutions Code Secs. 516, 580-585, 652-654.

Although probation officers are in a sense adjuncts or officers of the court, they are nevertheless, in a complete sense of the term, County officers. Gibson v. Civil Service Commission., 27 Ca. App. 396, 150 P. 78 (1915).

[48] For duties, see Probate Code Secs. 1140-1155, Gov. Code Secs. 27440-27443.

The Public Administrator is a public officer, performing a governmental function, and is entitled to the legal services of the attorney for the county, at least where the County Charter so provides. Estate of Miller, 5 Cal2d 588, 55 P.2d 491 (1936).

A public administrator is primarily a public officer performing essentially a governmental function, but when, by virtue of his office, he is appointed administrator of a particular estate, he becomes as to that estate the trustee of a private trust and is subject to the powers and duties of administrators generally, where there is no charter or statutory provision specially governing his action in discharge of his duties.

Prob. Code Sec. 902 applies to a public administrator in his administration of a private trust in absence of statutory or charter provision declaring otherwise and in making such contracts as provided for in Sec. 902 he acts not on behalf of the county but on behalf of the estate he is administering. Estate of McMillin v. Robinson, 46 Cal.2d 121, 292 P.2d 881 (1956).

Section 14. (Continued)

Public Defender[49]
Purchasing Agent[50]
Recorder[51]
Registrar of Voters[52]
Road Commissioner
Superintendent of Schools[53]
Surveyor[54]
Tax Collector[55]
Treasurer[56]

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[49] *For duties, see Gov. Code. Secs. 27700-27711.*

After the decision in Avan v. Municipal Court, 62 Cal.2d 630, 43 Cal. Rptr. 835, 401 P.2d 227 (1965) holding that the County must pay counsel assigned to defend defendants in cases triable in municipal and justice courts, including city public defenders, the Legislatures by Chapters 324, P. 1434, Statutes of 1965, amended Sec. 27706 of the Governmental Code to require a county public defender also to defend in cases triable in municipal and justice courts.

Note, also, Marks v. Superior Court, 245 Cal. App.2d 779, 54 Cal. Rptr. 169 (1966).

[50] *For duties, see Gov. Code Secs. 25500-25508.*

[51] *For duties, see Gov. Code Secs. 27200-27383.*

[52] *For duties, see Elections Code Secs. 17, 280, 281, 283, 285-287, 1620-1624, 1628-1632.*

[53] *For duties, see Education Code Secs. 801-816.*

Provision of a county charter framed under Sec. 4 (formerly Sec. 7½) of Article XI of the Constitution, prescribing the duties of officers does not relate to the County Superintendent of Schools as this office is the constitutional office created by Sec. 3 of Article IX of the State Constitution. Under Sec. 4 (former Sec. 7½) of this article, the charter may provide that the office be appointive despite Sec. 3 of the said Article IX which says that a superintendent of schools for each county shall be elected. Nielsen v. Richards, 69 Cal. App. 533, 232 P. 480 (1924).

Constitution Article IX, Sec. 3.1, authorizing the Legislature to fix salaries of county superintendents of schools supersedes not only former Sec. 5 of Article XI which, prior to its repeal in 1970, prohibited increase in compensation of a county officer during his term of office, but also a county charter provisions prohibiting such increase enacted under Article XI, Sec. 4 (former Sec. 7½). Seidel v. Waring, 36 Cal.2d 149, 222 P.2d 669 (1950).

[54] *For duties, see Gov. Code Secs. 27550-27564 and Sec. 242/3 infra. P. 27. In this County the County surveyor is known as County engineer.*

[55] *For duties, see Revenue and Taxation Code Sec. 2602, Gov. Code Secs. 27400-27401.*

[56] *For duties, see Gov. Code Secs. 27000-27121.*

Quoting from Board of Law Library Trustee v. Lowery, 67, Cal. App.2d 480, 154 P.2d 719 (1945) the court said:

"Aside and separate from his duties as official treasurer for the county, the county treasurer, by legislative direction, is in effect ex officio treasurer for public bodies without treasurers of their own, including the superior court." Ostly v. Saper, 147 Cal. App.2d 671, 305 P. 946 (1957).

Section 14. (Continued)

Director of Hospitals[57]
Director of Public
Social Services[57]
Director of Adoptions[57]
Director of Personnel[57]

[57] *1966 Addition. Added by Stats. 1967 Resolution Chap. 6.*

Section 14. (Continued)

Such other officers as may hereafter be provided by law shall also be appointive.[58]

The treasurer shall be ex officio Tax Collector and License Collector.[59]

The Coroner shall be a physician who is a certified pathologist.[60]

Section 15. All fees collected by any County officer, board or commissioner shall be paid into the County Treasury on the first Monday of each calendar month, together with a detailed statement of the same in writing, a duplicate copy of which shall be filed with the Auditor at the same time.[61]

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[58] The Secretary of the Superior Court is an officer of the courts which are a part of the judicial system of the state. Such officer is not a county officer, attaché or employee, and is not so recognized by either the Charter or Constitution. Noel v. Lewis, 35 Cal. App. 658, 170 P. 857 (1917).

[59] 1934 Amendment. Amended by Stats. 1935, Chap. 31 P. 2440 at P. 2442.

[60] 1956 Amendment. Amended by Stats. 1957, Chap. 125, P. 4462 at P. 4464.

[61] Under this Section a sheriff whose compensation has been fixed pursuant to Sec. 11(1) of the Charter must pay all fees collected by him as sheriff to the County Treasury.

> *"Under the ordinance passed pursuant to charter provisions, the time of the sheriff consumed in the performance of his official duties belongs to the county, and his earnings in performance thereof, like those of any other employee, belong to the employer." County of Los Angeles v. Cline, 37 Cal. App. 607, 174 P. 73 (1918).*

Where the general law fixed the salary of an assessor and provided that he could keep for his own use four percent of the personal property taxes collected by him and where the county charter fixed a different salary and provided that the assessor should pay all fees and commissions into the county treasury; held the charter provisions prevailed. County of Tehama v. Winter. 56 Cal. App. 341, 205 P. 97 (1922).

Fees paid by the State to the County for work done by the County Director of Public Health and Sanitation as local registrar of vital statistics belong to the County under a charter Section providing that all fees "collected for the performance of official duties or otherwise" be paid into the County Treasury. Lesem v. Getty, 23 Cal. App.2d 57, 72 P.2d 183 (1937). Distinguishing: Sacramento, City of v. Simmons, 66 Cal. App. 18 225 P. 36 (1924), holding the fees paid to a commissioner of the City of Sacramento who was also head of the Department of Public Health and Safety for such city for acting as registrar of vital statistics could not be recovered from him by the city under a provision of the city charter reading:

> *"All public moneys collected by any officer or employee of the city shall be paid into the city treasury, without any deduction on account of any claim for fees, commissions or any other cause or pretense."*

Section 16. Whenever a vacancy occurs in an elective County office other than a member of the Board of Supervisors, the Board shall fill such vacancy, and the appointee shall hold office until the election and qualification of his successor. In such case, there shall be elected at the next general election an officer to fill such vacancy for the unexpired term, unless such term expires on the first Monday in December succeeding said election.[62]

[62] *The unexpired term of a district attorney who resigned from such office is to be filled by election at the first general election which occurs following the vacancy for which election candidates could qualify under any method prescribed by law, and the fact that the vacancy did not occur until after the primary election is immaterial when considered in the light of the language of the charter. Hedlund v. Davis, 47 Cal.2d 75, 301 P.2d 843 (1956).*

ARTICLE V.[63]

Township Officers

Section 17. Repealed.[64]

Section 18. Repealed.[65]

Section 19. Repealed.[66]

Section 20. Repealed.[67]

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[63] This whole article probably has been superseded by the amendment of November 7, 1950, of Sec. 11 of Article VI of the State Constitution. See Note 18 supra. Footnotes 60-65 infra all apply to the law as it existed before the amendment. References to Article XI, Sec. 7½ are to that Section as it reads prior to its repeal in 1970.

[64] Repeal proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984 and was given Charter Chapter No. 20.

[65] Repeal proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984, and was given Charter Chapter No. 20.

[66] Repeal proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984, and was given Charter Chapter No. 20.

[67] Repeal proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984, and was given Charter Chapter No. 20.

ARTICLE VI.

Duties of Officers

Section 21. The County Counsel[68] shall represent and advise the Board of Supervisors[69] and all County, township and school district officers, in all matters and questions of law pertaining to their duties, and shall have exclusive charge and control of all civil actions[70] and proceedings[71] in

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[68] Additional duties are imposed upon the County Counsel by Government Code Secs. 27642, 27643, 27645, 27646 and 31529; Health and Safety Code, Sec. 34279; Penal Code, Sec. 934; Revenue and Taxation Code, Sec. 4986; Public Resources Code, Sec. 9266; Water Code, Sec. 12887.0; Welfare and Institutions Code, Sec. 10002.

The County Counsel in complying with this Section does not violate the provisions of the State Bar Act, nor does the County practice law as a corporation where the County Counsel represents the Public Administrator. Estate of Miller, 5 Cal.2d 588, 55 P.2d 491 (1936).

The latter portion of Subdivision 4 of Sec. 4 (former Sec. 7½) of Article XI is void because inconsistent and repugnant to the general provision of the Section of which it is a part. The County Charter may provide for powers and duties. Decision based on "Home Rule" theory. Reuter v. Board of Supervisors, 220 Cal. 314, 30 P.2d 417 (1934).

In Woolwine v. Superior Court, 182 Cal. 388, P. 569 (1920), the court raised but did not decide the question of whether those provisions of this article which are in conflict with the general laws are rendered invalid by Sub. 4 of former Sec. 7½ of Article XI of the Constitution providing"....the provisions of such charters relating to the powers and duties of Board of Supervisors and all other County officers shall be subject to and determined by General laws." In this particular case, the issue involved those Sections of the charter giving control, despite the fact that the County government law placed a duty of representing the county in such actions upon the district attorney. See Gov. Code Sec. 26529.

The office of County Counsel is a proper county office within the meaning of the constitution, and the statute creating it is not a special law. Ogle v. Eckel, 49 Cal. App.2d 599, 122 P.2d 67 (1942).

[69] The Board of Supervisors has no power to cancel an assessment on a bank as to solvent credits owned, claimed, possessed or controlled by it without the consent of the County Counsel (Rev. & Tax Code Sec. 4986). Bank of America v. Board of Supervisors, 93 Cal. App.2d 75, 208 P.2d 772 (1949).

[70] Powers and duties of County Counsel appointed pursuant to charter are not defined by Gov. Code Sec. 27642, but such Counsel, not being appointed pursuant to such code provisions, has only the powers and duties given him by charter.

Although this Section invests the County Counsel with "exclusive charge and control of all civil actions and proceedings in which the county or any officer thereof is concerned or is a party," it is the duty of the District Attorney to abate, when directed by the Board of Supervisors, that which constitutes a public nuisance within the Red Light Abatement Act (Stats. 1913, P. 20, Sec. 1-3; Gov. Code Sec. 26528; Code of Civ. Proc. (731). Board of Supervisors v. Simpson 36 Cal.2d 671, 227 P.2d 14 (1951).

[71] The complaint of a taxpayer for accounting of moneys paid by the County is subject to demurrer unless it is clearly alleged therein that the District Attorney has refused to institute the action to recover the alleged illegal expenditures. Miller v. McKinnon, 20 Cal.2d83, 124 P.2d 34 (1942) and Wilson v. Sharp, 42 Cal.2d 675, 268 P.2d 1062 (1954)

Section 21. (Continued)

which the County or any officer thereof, is concerned[72] or is a party. He shall also act as attorney for the Public Administrator[73] in the matter of all estates in which such officer is executor, administrator with the will annexed, or administrator,[74] and the County Counsel shall, in every such matter, collect the attorney's fees[75] allowed therein by law and pay the same into the County Treasury.

Section 22. The Director of Hospitals shall, under the direction of the Board of Supervisors, exercise general supervision over and enforce rules and regulations for the conduct and government of the County's hospitals, and of such other health, medical and charitable institutions and activities of the County as the Board of Supervisors may designate by ordinance. He shall perform such other duties as may be prescribed by the Board of Supervisors or by law.[76]

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[72] In Keith v. Hammel, 29 Cal. App. 131, 154 P. 871 (1915), the Court construed this Section, in conjunction with Sec. 21 of the Charter and Political Code Sec. 4041(16) now found in Government Code Sec. 25203, to mean that the County shall be party to actions and proceedings wherein it is concerned, and that the conduct of such actions is committed to public officers. Thus a proceeding against the sheriff to compel him to pay into the County Treasury certain fees he has collected may not be prosecuted by a taxpayer until the officers in control of litigation have refused to do so.

[73] The Public Administrator is a public officer of the county, performing a governmental function, and he is entitled to the legal services of the County Counsel where the charter so provides. This provision of the charter authorizing the County Counsel to collect statutory fees for such services and pay the same into the County Treasury is a proper charter provision under Sec. 4 (former Sec. 7½ of Article XI of the Constitution.) Estate of Miller, 5 Cal.2d 588, 55 P.2d 491 (1936), overruling Whelan v. Bailey, 1 Cal. App.2d 334, 36 P.2d 709 (1934).

The County Charter may properly provide for the powers and duties of its officers, and may do this without limitation by general law, hence it may provide that the County Counsel shall act as attorney for its public administrator, who is a public officer exercising a governmental function. Estate of Miller, 5 Cal.2d 588, 55 P.2d 491 (1936).

[74] This section does not preclude the Public Administrator from employing a special counsel when, in his judgement, it is desirable in a given case. Estate of Schnell, 82 Cal. App.2d 170, 185 P.2d 856 (1947).

[75] This Section "does not purport to be a revenue measure in the interest of the County. It contemplates that the County Counsel shall act, that is, do something in conducting the probate proceedings." Thus where the County Counsel does not render the ordinary legal services to the Public Administrator in a probate proceeding, he is not entitled to the statutory fees. Estate of Murphy, 171 Cal. 697, 154 P. 839 (1916).

[76] 1966 Amendment. Amended by 1967 Stats. Resolution Chap. 6.

Section 22 1/4. The Director of Public Social Services, under the direction of the Board of Supervisors, shall administer those activities and functions involved in providing aid or social services or both, within the limits authorized by law or ordinance, to persons who, because of their economic circumstances or social conditions, are in need thereof and may benefit thereby. He shall perform such other duties as may be prescribed by the Board of Supervisors or by law.[77]

Section 22 1/2. The Director of Adoptions shall, under the direction of the Board of Supervisors, administer those activities and functions involved in providing assistance or services or both in connection with the adoption of persons, and all matters related thereto. He shall perform such other duties as may be prescribed by the Board of Supervisors or by law.[78]

Section 22 3/4. The Director of Personnel shall perform duties as provided in Article IX hereof.

To enable a consolidation of personnel functions of the County, other than personnel functions which are the responsibility of other appointing authorities pursuant to the provisions of this Charter, the Board of Supervisors may prescribe that the Director of Personnel exercise general supervision over and enforce all or any portion of the rules and procedures of the County's personnel system including, but not limited thereto, the making of reports and recommendations to the Board of Supervisors with respect to the compensation of County employees and the administration of rules and procedures to be followed in the County's employer-employee relationships. All duties performed by the Director of Personnel, other than those performed pursuant to Article IX hereof, shall be under the direction of the Board of Supervisors.[79]

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[77] *1966 Addition. Added by 1967 Stats. Resolution Chap. 6.*

[78] *1966 Addition. Added by 1967 Stats. Resolution Chap. 6.*

[79] *1974 Amendment. Amended by 1975 Stats. Resolution Chap. 135.*

Section 23. Upon request by the defendant or upon order of the court, the Public Defender shall defend, without expense to them, all persons who are not financially able to employ counsel and who are charged, in the Superior Court, with the commission of any contempt, misdemeanor, felony or other offense. He shall also, upon request, give counsel and advice to such person in and about any charge against them upon which he is conducting the defense, and he shall prosecute all appeals to a higher court or courts, of any person who has been convicted upon any such charge, where, in his opinion, such appeal will, or might reasonably be expected to, result in a reversal or modification of the judgment of conviction.[80]

He shall also, upon request, prosecute actions for the collection of wages and of other demands of persons who are not financially able to employ counsel, in cases in which the sum involved does not exceed $100, and in which, in the judgment of the Public Defender, the claims urged are valid and enforceable in the courts.

He shall also, upon request, defend such persons in all civil litigation in which, in his judgment, they are being persecuted or unjustly harassed.

The costs in all actions in which the Public Defender shall appear under this Section, whether for plaintiffs or for defendants, shall be paid from the County Treasury, at the times and in the manner required by law, or by rules of the court, and under a system of demand, audit and payment, which shall be prescribed by the Board of Supervisors. It shall be the duty of the Public Defender, in all such litigation, to procure, if possible, in addition to general judgments in favor of the persons whom he shall represent therein, judgments for costs and attorney's fees, where permissible, against the opponents of such persons, and collect and pay the same into the County Treasury.

Section 24. Subject to rules and regulations which shall be adopted by the Board of Supervisors, by ordinance, the Purchasing Agent shall be the buyer of furniture, fixtures, tools, supplies, materials or other articles of personal property for the County and for County, townships and all other officers.

[80] *The duties of the Public Defender have been expanded considerably by Sec. 27706 of the Government Code as am. Stats. 1965, Chap. 324, P. 1434; Stats. 1967 Chap. 123 P. 1147; Stats. 1970 Chap. 1627, P. 3438 at P. 3439 and Stats. 1972, Chap. 661.*

Section 24 1/3. (a) There is hereby established a department of the County to be known and designated as Department of County Forester and Fire Warden, which shall be under the management and control of the County Forester and Fire Warden who shall be appointed by the Board of Supervisors subject to the provisions of Article IX hereof, and shall be furnished such deputies, assistants, clerks, and other employees as may be provided by ordinance, provided that upon the taking effect of this Section the County Forester and the County Fire Warden heretofore existing shall become the County Forester and Fire Warden of said Department of County Forester and Fire Warden hereby created without further civil service examination, and each deputy, assistant, clerk, and other employee of said existing department shall be likewise transferred to a position of like class in the Department of County Forester and Fire Warden hereby created.

(b) Repealed.[81]

(c) It shall be the duty of the County Forester and Fire Warden and all deputy Forester and Fire Wardens to enforce and observe all orders and ordinances of the Board of Supervisors pertaining to forest, brush, and other fires, and all statutes relating to prevention or extinguishment of forest, brush or grass fires. The County Forester and Fire Warden shall cooperate with the State Forester and the Federal Forest Supervisors in the prevention and suppression of forest fires in the County of Los Angeles, and shall make a yearly report to the Board of Supervisors on the condition of the forests in Los Angeles County and on the damage by fire to the forests during the year reported.

(d) It shall be the duty of the County Forester and Fire Warden, subject to the orders of the Board of Supervisors, to construct and maintain fire lanes or breaks wherever proper and necessary to check and prevent the spreading of forest or brush fires. Such lanes or breaks shall be located and constructed in the manner that will serve the greatest public good with the least injury to the land on which they are constructed.

[81] *Repealed by Stats. 1945, Resolution Chap. 13, P. 2921.*

Section 24 1/3. (Continued)

(e) It shall be the duty of the County Forester and Fire Warden under the direction of the Board of Supervisors, to study the fire protection needs of the County, and all unincorporated territory thereof, and advise the Board of Supervisors with respect thereto, and particularly of the advisability of the formation of any County fire protection district or districts, to seek to interest the inhabitants of any such proposed fire protection district and to aid in its formation; after formation of such districts, to advise the Board of Supervisors in the purchase of equipment and other property for such districts and to supervise the agents, employees or other persons engaged to fight fires therein, and in general, to have charge of all matters relating to or connected with the administration of such County fire protection districts.

(f) It shall be the duty of the County Forester and Fire Warden to extinguish structural fires in unincorporated territory not included within any fire protection district. He shall also enforce all statutes, ordinances, and orders of the Board of Supervisors relating to the prevention and extinguishment of structural fires in such territory. Where a statute, ordinance or order of the Board of Supervisors provides for the prevention or extinguishment of particular kinds of structural fires or for the inspection or control of particular structural fire hazards and prescribes duties for the County Forester and Fire Warden respecting the same the County Forester and Fire Warden shall act in accordance with such statute, ordinance or order, but except as so prescribed his duties with reference to structural fires and structural fire hazards shall be as prescribed herein.

(g) It shall be the duty of the County Forester and Fire Warden to inspect private lands and the buildings and structures thereon for the purpose of determining if a structural fire hazard exists. Where it is found that a fire hazard exists, he shall order the owner or person responsible therefor to abate or diminish such hazard as said County Forester and Fire Warden may deem proper, and he may make recommendations or suggestions to such person for that purpose. If after due notice such person refuses or neglects to abate or to diminish such structural fire hazard as directed by said order, the County Forester and Fire Warden shall immediately report the same to the Board of Supervisors, together with his recommendations as to future action and thereafter he shall take such further steps as may be ordered by the said Board of Supervisors. It shall also be the duty of the County Forester and Fire Warden to render an annual report to the Board of Supervisors setting forth the number and full details of the structural fires which he has been called upon to extinguish, the condition of such territory with regard to structural fire hazard and his recommendations for better combatting such fires and for the abating and lessening of such fire hazard.

Section 24 1/3. (Continued)

(h) The County Forester and Fire Warden shall use such apparatus, equipment, fire fighting personnel and inspection personnel in carrying out the duties set forth in paragraphs (f) and (g) hereof as the Board of Supervisors may from time to time authorize for such use. Where it is necessary to use the apparatus, equipment or fire fighting force of the fire protection districts to extinguish structural fires in unincorporated territory not included in any fire protection district and where such use is authorized by the state statute creating and governing the County fire protection districts, it shall be the duty of the County Forester and Fire Warden to supervise and direct the use thereof for such purpose.

(i) It shall be the duty of the County Forester and Fire Warden to extinguish and abate peat and bog fires in unincorporated territory not included within any fire protection district. He shall also enforce all statutes, ordinances and orders of the Board of Supervisors relating to the prevention and extinguishment of such fires.

(j) It shall be the duty of the County Forester and Fire Warden subject to the orders of the Board of Supervisors to carry on educational work for the information of the public relative to the prevention of fires and to the conservation of natural resources, and to prepare or cause to be prepared information relating to these subjects and disseminate such information by means of lectures, motion pictures, stereopticon slides or other projection of pictures, displays and exhibits, or by any other appropriate means. He shall also enforce all statutes, ordinances, and orders of the Board of Supervisors relating to such educational work.[82]

Section 24 2/3. The County Surveyor shall be known and referred to as the County Engineer. He shall be a civil engineer authorized to practice civil engineering in the State of California. He shall perform all the duties now or hereafter imposed by law on the County Surveyor, all civil engineering work for the County except that which is now or hereafter imposed on some other County officer by State law or by this Charter, and such other duties as may be prescribed by ordinance of the Board of Supervisors.[83]

[82] *1934 Addition. Added by Stats. 1935, Resolution Chap. 31, P. 2440 at P. 2442.*

[83] *1954 Addition. Added by 1955 Stats. Resolution Chap. 20, P. 3788 at 3790.*

Section 25. Each County officer, Board or Commission shall have the powers and perform the duties now or hereafter prescribed by general law, and by this Charter, as to such officer, Board or Commission.[84]

[84] *A 1984 amendment proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 7, 1984, and was given Charter Chapter No. 20.*

ARTICLE VII.

Road Department

Section 26. The Board of Supervisors may provide for the formation of road districts for the care, maintenance, repair and supervision of roads, highways and bridges; and for the formation of highway construction divisions for the construction of roads, highways and bridges, [85] for the inclusion in any such district or division of the whole or any part of any incorporated city or town upon ordinance passed by such incorporated city or town authorizing the same, and upon the assent to such inclusion by a majority of the qualified electors of such incorporated city or town or portion thereof proposed to be so included at an election held for that purpose; for the organization, government, powers and jurisdiction of such district or division, for raising revenue therein for such purposes, by taxation, upon the assent of a majority of the qualified electors of such district or division, voting at an election held for that purpose; for the incurring of indebtedness therefore by the county, district or division for such purposes, respectively, by the issuance and sale, by the County, of bonds of the County, district or division, and the expenditure of the proceeds of the sale of such bonds, and for levying and collecting taxes against the property of the County, district or division, as the case may be, for the payment of the principal and interest of such indebtedness at maturity; provided that any such indebtedness shall not be incurred without the assent of two-thirds of the qualified electors of the County, district or division, as the case may be, voting at an election held for that purpose, nor unless before or at the time of incurring such indebtedness, provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also for a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed forty years from the time of contracting the same; and the procedure for voting, issuing and selling such bonds, except insofar as the same shall be otherwise prescribed in this Charter, shall conform to general laws for the authorizing and incurring of bonded indebtedness by counties, so far as applicable; provided, further, that the construction, care, maintenance, repair and supervision of roads, highways and bridges for which aid from the State is granted shall be subject to such regulations and conditions as may be imposed by the legislature.

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[85] This Section, which follows the language of former Sec. 7½ of Article XI of the Constitution, subdivision 6, was permissive and did not prescribe the only method for the formation of road districts which the Board of Supervisors may use. The Road District Improvement Act of 1907 (Act 3276 Derring's General Laws, Stats. 1907, Chap. 442 P. 806) was neither repealed nor superseded by the Constitution or charter, and, prior to its repeal (except for Sec. 26a), by Stats. 1933 Chap. 735, P. 1793 could be followed in the formation of road districts. Thomas v. Pridham, 171 Cal. 98, 153 P. 933 (1915). The above provision for road districts probably are obsolete. Sec. 4 which replaced Sec. 7½ of Article XI of the State Constitution makes no provision for road districts. Sec. 1020 of the Streets and Highways Code seems to be the only extant provision for road districts.

Section 27. The Road Commissioner, subject to such rules and regulations as shall be prescribed by the Board of Supervisors, shall have direction and control over all work of construction, maintenance and repair of roads, highways and bridges, other than work done under contract, and it shall be his duty to examine and inspect contract work as the same progresses and to see that the same is properly performed, and when completed to file his written approval thereof with the Board of Supervisors. He shall also have the control and management of all County rock quarries and gravel pits, and of all other materials, property and instrumentalities necessary for and connected with the construction, maintenance and repair of roads, highways and bridges.[86]

ARTICLE VIII.

Constabulary Department

Section 28. Repealed.[87]

Section 29. Repealed.[88]

[86] *Under this Section the supervisors are relieved from caring for the roads in their respective districts. When the supervisors have by appropriate general rules, regulations and directions, provided for the maintenance and repair of the highways by the road commissioner, in the absence of specific knowledge of his failure to perform his duty in some particular case, they are relieved from responsibility for the results of his negligence.* Ham v. County of Los Angeles, *46 Cal. App. 148, 189 P. 462 (1920).*

[87] *Repeal proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984, and was given Charter Chapter No. 20.*

[88] *Repeal proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984, and was given Charter Chapter No. 20.*

ARTICLE IX.

Civil Service

Section 30. Purpose of Civil Service System.[89]

The purpose of this article is to establish a Civil Service System for the classified service which shall provide County government with a productive, efficient, stable, and representative work force by:

(1) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills relevant to the work to be performed.

(2) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(3) Assuring fair treatment of applicants and employees in all aspects of personnel administration without discrimination based on political affiliation, race, color, national origin, sex, religious creed or handicap and with proper regard for their privacy and constitutional rights as citizens.

(4) Assuring that employees are protected against coercion for political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

[89] *1948 Amendment. Amended by Stats. 1949, Resolution Chap. 9, P. 2880.*

1978 Amendment. Amended by Stats. 1978, Charter Chap. 29.

Section 31. Civil Service Commission.

The Civil Service Commission shall consist of five members appointed by the Board of Supervisors. Each member of the Commission shall be appointed for a four-year term and shall serve until a successor is appointed and qualified. The term of a Commissioner appointed prior to November 7, 1978, shall expire four years after appointment or on November 7, 1978, whichever is later. Any vacancy on the Commission shall be filled by the Board of Supervisors for a full four-year term beginning on the date of appointment. No member shall hold any other salaried County office, nor shall have been, within the year next preceding appointment, an active executive officer in any political organization. Each member shall be an elector of the County. The Board of Supervisors by a four-fifths vote of all the members may remove a member of the Commission during his or her term of office, but only upon stating in writing the reasons for such removal and allowing such member an opportunity to be publicly heard in his or her own defense.[90]

Section 32. Director of Personnel.

The Board of Supervisors shall appoint the Director of Personnel who shall under the general direction of the Board of Supervisors, administer the Civil Service system in accordance with the provisions of this Charter and the Civil Service Rules. The Director of Personnel shall, under the direction of the Board of Supervisors, perform such other duties as may be prescribed by said Board pursuant to the provisions of Section 22$_{3/4}$ hereof. The Director of Personnel shall appoint all assistants, deputies, and other persons in the department.[91]

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[90] *1948 Amendment. Amended by Stats. 1949, Resolution Chap. 9, P. 2882.*

1966 Amendment. Amended by Stats. 1967, Resolution Chap. 6, P. 4339.

1974 Amendment. Amended by Stats. 1975, Resolution Chap. 135, P. 3842.

1978 Amendment. Amended by Stats. 1978, Charter Chap. 29.

[91] *1978 Amendment. Amended by Stats. 1978, Charter Chap. 29.*

Section 33. The Civil Service of the County is hereby divided into the unclassified and the classified service.[92]

The unclassified service shall comprise:

(a) All officers elected by the people.

(b) Members of all commissions, committees and boards created by this Charter, statute or ordinance.

(c) All heads of County agencies and departments.[93]

(d) In the office of the District Attorney: The Chief and one other deputy, Bureau Chiefs, Assistant Bureau Chiefs, Administrative Deputy-District Attorney, Chief Field Deputy, three Special Assistants, one secretary, and three detectives; and special counsel and special detectives for temporary employment.

(e) In the office of the Sheriff: The Undersheriff, or Chief Deputy, one Executive Assistant, one Executive Secretary, three Field Deputies, three Assistant Sheriffs, one of whom may be non-sworn and may be appointed from outside the office of the Sheriff, and twelve Division Chiefs, two of whom may be non-sworn and may be appointed from outside the office of the Sheriff.[94] In the office of the Assessor: The Chief Deputy, one Assistant Assessor, one Executive Secretary, three Special Assistants, and four Directors.

(f) Superintendents, principals and teachers in the school system.

(g) All officers and other persons serving the County without compensation.

(h) In the office of each Supervisor: All Deputies. Some or all of these Deputies may by ordinance be given a job title other than Deputy.[95]

(i) In each County agency and department: The positions, if any, of Chief Deputies, and of assistants or deputies next in line of authority to Chief Deputies.[96]

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[92] 1948 Amendment. Amended by Stats. 1949, Resolution Chap. 9, P. 2882.

1976 Amendment. Amended by Stats. 1976, Appendix Chap. 13, P. 32.

1978 Amendment. Amended by Stats. 1978, Charter Chap. 29.

In Placer County Employees' Association v. Board of Supervisors, 233 Cal. App.2d 555, 43 Cal. Rptr. 782 (1965) the court discusses the reasons for exempt or unclassified positions.

[93] County Counsel has opined that the Director of Public Social Services remains in the classified services, August 31, 1976.

[94] 2002 Amendment. Amended by Stats. 2002, Charter Chapter No. 12.

[95] 1978 Addition. Added by Stats. 1978, Charter Chap. 29.

[96] 2000 Addition. Added by Stats. 2000, Charter Chap. No. 2.

Section 33. (Continued)

The classified service shall include all other positions now existing or hereafter created.

Section 33.5. Notwithstanding any other provision of this Charter, any person employed as a County department head on the effective date of this Section and whose position as department head is removed from the classified service on said date and placed in the unclassified service, shall continue to have the same rights as if his position had not been placed in the unclassified service.[97]

Section 33.5(a). Notwithstanding any other provision of this Charter, any person employed as an Executive Assistant, Executive Secretary, Field Deputy, Division Chief, Assistant Sheriff, in the office of the Sheriff, or as an Assistant Assessor, Executive Secretary, Special Assistant, or Director in the office of the Assessor, or as a Bureau Chief, Assistant Bureau Chief, Administrative Deputy District Attorney or Chief Field Deputy in the office of the District Attorney on the effective date of this Section shall remain in the classified service for so long as he holds the position that he held on the effective date of this Section.[98]

Any other provision of this Charter notwithstanding, a vacancy in the position of Assistant Sheriff, except for one such position[99], shall be filled without examination or creation of an eligibility list by appointment from among sworn personnel holding a current permanent appointment as a Commander or higher position in the classified service in the office of the Sheriff.

Any other provision of this Charter notwithstanding, a vacancy in the position of Division Chief, except for two such positions[99], shall be filled without examination or creation of an eligibility list by appointment from among sworn personnel holding a current permanent appointment as a Captain or a higher position in the classified service in the office of the Sheriff.

Any other provision of this Charter notwithstanding, a vacancy in the position of the Assistant Assessor or Director shall be filled without examination or creation of an eligibility list by appointment from among those persons holding a current permanent appointment in the classified service in the office of the Assessor.

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[97] *1976 Addition. Added by Stats. 1976, Appendix Chap. 13, P. 32.*

[98] *1978 Addition. Added by Stats. 1978, Charter Chap. 29.*

[99] *2002 Amendment. Amended by Stats. 2002, Charter Chapter No. 12.*

Section 33.5(a). (Continued)

Any other provision of this Charter notwithstanding, a vacancy in the position of Bureau Chief and Assistant Bureau Chief shall be filled without examination or creation of an eligibility list by appointment from among those persons holding a current permanent appointment as a Deputy District Attorney Grade IV or higher attorney position in the classified service in the office of the District Attorney.

Any other provision of this Charter notwithstanding, a vacancy in the position of Administrative Deputy District Attorney shall be filled without examination or creation of an eligibility list by appointment from among those persons holding a permanent appointment to a classified position under this Charter.

Section 33.6. In the event that a member of the classified service is appointed to an unclassified position, he shall have the right to take a leave of absence from his position in the classified service while holding such appointment and, upon the termination of such appointment, to return to the status in the classified service which he held at the time of his appointment.[100]

Section 33.7. Repealed.[101]

Section 33.8. Notwithstanding any other provision of this Charter, any person employed as a Supervisor's Deputy on the effective date of this Section and whose position as Supervisor's Deputy is removed from the classified service on said date and placed in the unclassified service, shall continue to have the same rights as if his position had not been placed in the unclassified service.[102]

Section 33.9 Notwithstanding any other provision of this Charter, any person holding a permanent classified position which is removed from the classified service and placed in the unclassified service under the provisions of Section 33(i), shall continue to have the same rights as if his or her position had not been placed in the unclassified service.[103]

Section 34. Functions of the Commission.

The Civil Service Commission shall serve as an appellate body in accordance with the provisions of Sections 35(4) and 35(6) of this article and as provided in the Civil Service Rules.

The Commission shall propose and, after a public hearing, adopt and amend rules to govern its own proceedings.

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[100] *1976 Addition. Added by Stats. 1976, Appendix Chap. 13, P. 32.*

[101] *Repealed by Stats. 1978, Charter Chap. No. 29.*

[102] *1978 Addition. Added by Stats. 1978, Charter Chap. No. 29.*

[103] *2000 Addition. Added by Stats. 2000, Charter Chap. No. 2.*

Section 34. (Continued)

In any hearing conducted by the Commission or by a hearing officer appointed by the Commission, the Commission or the hearing officer shall have the power to subpoena and require the attendance of witnesses and the production thereby of books and papers pertinent to the hearing and each Commissioner or hearing officer shall have the power to administer oaths to such witnesses.[104]

Section 35. Civil Service Rules.

Rules of the Civil Service System shall be adopted by the Board of Supervisors only after a public hearing.

Rules of the Civil Service System shall provide for:

(1) Establishment and maintenance of a classification plan and the classification of all positions which are included in the system.

(2) Recruitment of persons to fill positions, either on an open or promotional basis, evaluation of qualifications of applicants, the establishment and maintenance of lists of qualified persons ranked according to their relative qualifications to hold designated positions, and certification of such lists to appointing powers. Appointments from lists may be made on a permanent, temporary, or recurrent basis. In the absence of an appropriate list, where the Director of Personnel finds an emergency exists, emergency appointments may be made. Such appointments may not exceed 90 days and may not be extended. Appointments to permanent positions shall be final only after the completion of a probationary period.

(3) Establishment of Countywide policies and systems for the evaluation of employee performance and for employee development.

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[104] *1940 Amendment. Amended by Stats. 1941, Resolution Chap. 2, P. 3235 and 3236.*

1946 Amendment. Amended by Stats. 1947, Resolution Chap. 11, P. 3361.

1948 Amendment. Amended by Stats. 1949, Resolution Chap. 9, P. 2280.

1954 Amendment. Amended by Stats. 1955, Resolution Chap. 20, P. 3788.

1972 Amendment. Amended by Stats. 1972, Resolution Chap. 166, P. 3467.

1978 Amendment. Amended by Stats. 1978, Charter Chap. 29

Section 35. (Continued)

(4) Procedures for appeal of allegations of political discrimination and of discrimination based on race, sex, color, national origin, religious opinions or affiliations or handicap made by County employees, regardless of status, and by applicants for employment.

(5) Procedures for layoff or reduction in lieu of layoff by the appointing power for reasons of economy or lack of work.

(6) Civil Service Commission hearings on appeals of discharges and reductions of permanent employees.

(7) Transfer and promotion of employees between County departments and districts participating in the Civil Service System and governed ex officio by the Board of Supervisors.

Existing Civil Service Rules will remain in effect until such time as revisions are adopted by the Board of Supervisors.[105]

Section 36. Certification of Payroll.

The Auditor shall not approve any salary or compensation for services to any person holding or performing the duties of a position in the classified service, unless the payroll account for such salary or compensation shall bear the certificate of the Director of Personnel that the persons named therein have been appointed or employed in accordance with the provisions of this article and the rules established thereunder.[106]

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[105] *1978 Amendment. Amended by Stats. 1978, Charter Chap. 29.*

[106] *1966 Amendment. Amended by Stats. 1967, Resolution Chap. 6, P. 4339.*

1978 Amendment. Amended by Stats. 1978, Charter Chap. 29.

Section 36$_{1/2}$. In all open competitive examinations held pursuant to this Charter, the Civil Service Commission shall, in addition to all other credits, give a credit of ten percent of the total credits specified for such examination to all persons passing the examination who have, or who shall have, served in the armed forces of the United States in time of war, armed insurrection or international police action and are honorably discharged, or whose service was honorable, and also to the wife of any such person who while engaged in such service in time of war, armed insurrection or international police action was wounded, disabled or crippled and thereby permanently prevented from engaging in any remunerative occupation, and also to the widow of any such person who died or was killed while in such service.[107]

Section 37. Repealed.[108]

Section 38. Repealed.[109]

Section 39. Repealed.[110]

Section 40. Repealed.[111]

[107] *1954 Amendment. Amended by Stats. 1955, Resolution Chap. 20, P. 3788.*

[108] *Repealed by Stats. 1978, Charter Chap. 29.*

[109] *Repealed by Stats. 1978, Charter Chap. 29.*

[110] *Repealed by Stats. 1978, Charter Chap. 29.*

[111] *Repealed by Stats. 1978, Charter Chap. 29.*

Section 41. No person in the classified service, or seeking admission thereto, shall be appointed, reduced or removed or in any way favored or discriminated against because of race, color, national origin, political or religious opinions or affiliations. [112]

[112] *1958 Amendment. Amended by Stats. 1959, Resolution Chap. 7, P. 5344.*

County officers have the right to appoint deputies and employees except as limited by the charter. There are two limitations: (1) appointments must be made from a list of three persons certified by the Civil Service Commission (Sec. 34, Subsec. 6); and (2) no appointment is to be based upon religious or political opinions or affiliations (Sec. 41). The officer is limited in his power to discharge in that the discharge may not be based upon an employee's political or religious opinion, affiliation, and the officer must present the deputy or employee with the reason for his discharge and give him a reasonable time to reply thereto. No hearing was required by the charter when this case was decided. Cronin v. Civil Service Commission, 71 Cal. App. 633, 236 P. 339 (1925).

Neither this provision nor the State or Federal Constitutions, however, prevent the Board of Supervisors from investigating the charter, antecedents, the viewpoints and affiliations of its employees, and it may demand of each employee an oath of allegiance to the Federal and State Constitutions and the laws of California as against all enemies of the United States and the state, and an affidavit that he does not advocate the overthrow of the government by force, or is not a member of organizations that advocate such overthrow; refusal to give such oath and affidavit is a proper basis for discharge. Steiner v. Darby, 88 Cal. App.2d 481, 199 P.2d, 429 (1948); 338 U.S. 327, 94 L.Ed. 144, 70 S. Ct. 161 (1949). Note, however, Keyishian v. Board of Regents, 385 U.S. 589, 87 S. Ct. 675, 17 L.Ed.2d 629 (1967); and Elfbrandt v. Russell, 384 U.S. 11, 86 S. Ct. 1238, 16 L.Ed.2d 321 (1966).

> *"Nothing is to be found in Sec. 41 intended to prevent an employer from discharging an employee who advocates the overthrow of our government."*
>
> *"The Section contains no inhibition against the county's discharging an employee whose first loyalty is to his ideal or armed revolution against the state that he serves. The fact that his tenure is protected by civil service does not avail him if he is disloyal."*
>
> *"Section 41 refers to politics and religion in their narrow connotations and not to such a movement as champions the destruction of the government by violence." Hirschman v. Los Angeles County, 39, Cal.2d 698, 249 P.2d 287 (1952).*

Section 1028.1 of the Government Code reads:

1028.1 It shall be the duty of any public employee who may be subpoenaed or ordered by the governing body of the state or local agency by which such employee is employed, to appear before such governing body, or a committee or subcommittee thereof, or by a duly authorized committee of the Congress of the United States or of the Legislature of this State, or any subcommittee of any such committee, to appear before such committee or subcommittee, and to answer under oath a question or questions propounded by such governing body, committee or subcommittee, or a member or counsel thereof, relating to:

- *(a) Present personal advocacy by the employee of the forceful or violent overthrow of the Government of the United States or of any state.*
- *(b) Present knowing membership in any organization now advocating the forceful or violent overthrow of the Government of the United States or of any state.*
- *(c) Past knowing membership at any time since October 3, 1945, in any organization which, to the knowledge of such employees, during the time of the employee's membership, advocated the forceful or violent overthrow of the Government of the United States or of any state.*
- *(d) Questions as to present knowing membership of such employee in the Communist Party or as to past knowing membership in the Communist Party at any time since October 3, 1934.*
- *(e) Present personal advocacy by the employee of the support of a foreign government against the United States in the event of hostilities between said foreign government and the United States.*

Any employee who fails or refuses to appear or to answer under oath on any ground whatsoever any such questions so propounded shall be guilty of insubordination and guilty of violating this Section and shall be suspended and dismissed from his employment the manner provided by law.

Violation of this Section is a ground for dismissal and a dismissal on such grounds is not for political or religious opinions or affiliations. Globe v. County of Los Angeles, 163 Cal. App.2d 595 at 599, 329 P.2d 971 (1958), Nelson v. County of Los Angeles, 362 U.S. 1; 80 S.Ct. 527; 4 L.Ed.2d 494 (1960)

Nelson v. Los Angeles County, 362 U.S. 1, 80 S. Ct. 527, 4 L.Ed.2d 494 (1960); but of. Hofberg v. Los Angeles County Civil Service Commission, 258 Cal. App.2d 433, 65 Cal. Rptr. 759 (1968).

Section 42. Repealed.[113]

Section 43. Repealed.[114]

Section 44. Any person willfully violating any of the provisions of this article, or of the rules established hereunder, shall be guilty of a misdemeanor.

Section 44.5. Nothing in this Article shall prevent the leasing of County-owned real property when and as authorized by law.[115]

[113]*Repeal was proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984, and was given Charter Chapter No. 23.*

[114]*Repeal was proposed by Board of Supervisors February 28, 1984, ratified at special election June 5, 1984, filed with Secretary of State August 9, 1984, and was given Charter Chapter No. 23.*

[115]*1958 Addition. Added by Stats. 1959, Resolution Chap. 7, P. 5344.*

Section 44.7. Nothing in this Article shall prevent the County, when the Board of Supervisors finds that work can more economically or feasibly be performed by independent contractors, from entering into contracts for the performance of such work. The Board of Supervisors shall adopt an ordinance specifying criteria for entering into contracts, and specifying competitive bidding procedures for the award of such contracts.[116]

ARTICLE X.

Labor

Section 45. In the employment of persons in the service of the County, where sex does not actually disqualify and where the quality and quantity of service is equal, there shall be no discrimination in selection or compensation on account of sex.

Section 46. Eight hours shall constitute a day's work for mechanics and others engaged in manual labor in the service of the County.

Section 47. In fixing compensation[117] to be paid to persons under the classified civil service, the Board of Supervisors shall be governed by applicable State statutes and County ordinances.[118]

Section 47.5. Discharge of striking employees.[119]

(a) No employee of the County of Los Angeles shall instigate, participate in, or afford leadership to a strike against the County of Los Angeles, or engage in any form of concerted action to withhold service from said County, or any of its departments, commissions or agencies.

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[116] *1972 Addition. Added by Stats. 1972, Resolution Chap. 166, P. 3497.*

1978 Amendment. Amended by Stats. 1978, Charter Chap. 29

[117] *1978 Amendment. Amended by Stats 1978, Charter Chap. 28.*

[118] *This Section was construed in Walker v. County of Los Angeles, 55 Cal.2d 626, 12 Cal. Rptr. 671 P.2d 247 (1961) and Williams v. County of Los Angeles, Los Angeles Superior Court No. 809416 (1963).*

[119] *This Provision was held unconstitutional and preempted by state law in Los Angeles County Federation of Labor v. County of Los Angeles, 160 Cal. App.3d 905, 207 Cal. Rptr. 1 (1985) See also County Sanitation District No. 2 v. Los Angeles County Employee's Assn., 38 Cal.3d 564, 214 Cal. Rptr. 424 (1985).*

Section 47.5. (Continued)

(b) A strike or concerted action to withhold services from said County, or any of its departments, commissions or agencies shall be defined as the failure of any employee or group of employees to report for duty, the absence of any employee or group of employees from duty, the stoppage of work or the abstinence in whole or in part from full, faithful and proper performance of the duties of employment, for the purposes of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or influencing or others not to remain in or assume public employment; provided, however, that nothing herein shall limit or impair the right of any employee or group of employees to express or communicate a complaint or opinion on any matter related to conditions of public employment, so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of public employment.

(c) Any employee of the County of Los Angeles who instigates, participates in or affords leadership to a strike against the County of Los Angeles or any of its departments, commissions or agencies, or engages in any form of concerted action to withhold services therefrom shall be subject to discharge from County service and said person shall not be reinstated or returned to the employ of the County of Los Angeles: Except that the employee may apply to return to County service as a new employee and may be employed in accordance with the regular employment practices of the County, in effect at the time for the position sought.

Section 47.5. (Continued)

(d) In the event of any such strike or concerted action, it shall be the duty of the Chief Administrative Officer or appropriate appointing authority to identify any employee of the County under his jurisdiction who is in violation of the provisions of this Section, and to initiate discharge proceedings against such employee in accordance with the applicable provisions of this Charter. Prior to initiating such a discharge proceeding, the Chief Administrative Officer or appropriate appointing authority shall provide notice to the employee of the charges against the employee and shall provide the employee with a timely opportunity to respond thereto. If the Chief Administrative Officer, or other appropriate appointing authority, after completing an investigation, determines that the charges are supported by the evidence submitted, and that the employee instigated, participated in, or afforded leadership to a strike against the County of Los Angeles or any of its departments, commissions or agencies, or engaged in any form of concerted action to withhold services therefrom, said appointing authority shall discharge the employee involved, and said person shall not be reinstated or returned to the employment of the County of Los Angeles; except as stated in paragraph (c) of this Section.

(e) In determining whether an employee engaged in a strike or in any form of concerted action to withhold service from said County or any of its departments, commissions or agencies, the Chief Administrative Officer or appropriate appointing authority shall use the following presumption which is rebuttable: Any employee who is absent from work without permission or who abstains wholly or in part from the full performance of the employee's duties in the employee's normal manner without permission, on the date or dates when a strike or concerted action to withhold services occurs, shall be presumed to have engaged in such strike or in concerted action to withhold services on such date or dates.

(f) A discharge imposed pursuant to this Section shall be appealable to the Civil Service Commission. However, notwithstanding other provisions of this Charter, in deciding whether the discharge of an employee for violating the provisions of this Section is proper, the Civil Service Commission shall be bound by the presumption stated in paragraph (e) of this Section. If, in the opinion of the Civil Service Commission, this presumption is not rebutted by a preponderance of the probative evidence, the Civil Service Commission shall sustain the discharge of the employee, and the County shall not be required to reinstate the employee.

Section 47.5. (Continued)

(g) No officer, board, commissioner, appointing authority, or other agent of the County, elected or appointed, shall have the power to grant amnesty and/or to waive any of the provisions of this Section, and/or to authorize, appease, condone or consent to any employee's instigating, participating in, or affording leadership to a strike against the County of Los Angeles or any of its departments, commissions or agencies, or engaging in any form of concerted action to withhold service therefrom. No person exercising any authority, supervision or direction over the agencies shall have the power to authorize, approve, condone or consent to a strike or other concerted activity prohibited by this Section; and no such person shall authorize, approve, condone or consent to such strike or other concerted activity prohibited by this Section.

(h) Every employee of the County of Los Angeles, whether employed on the effective date of this Section or thereafter employed, shall be furnished a copy of the provisions of this Section and shall acknowledge receipt thereof by executing the following statement which shall be filed with the office of the Civil Service Commission:

"I hereby acknowledge receipt of a copy of the provisions of Section 47.5 of the Charter of the County of Los Angeles and agree that I understand that during my term of employment with the County, I shall neither instigate, participate in, or afford leadership to a strike against the County of Los Angeles, or any of its departments or agencies, or engage in any concerted action to withhold my services from the County of Los Angeles, or any of its departments or agencies.

"I further understand that if I instigate, participate in or afford leadership to such a strike or engage in any such concerted action I shall be subject to discharge and shall not be reemployed by the County; except that I may apply to return to County service as a new employee and may be employed in accordance with the regular employment practices of the County in effect at that time for the position which I seek.

"Furthermore, I understand that I will be rebuttably presumed to have engaged in such a strike or other prohibited concerted action against the County of Los Angeles, its commissions, departments and agencies, if I am absent from work without permission or if I abstain wholly or in part from the full performance of my duties in the normal manner without permission from the appropriate appointing authority on the date or dates when a strike or other form of concerted action to withhold services from said County, or any of its commissions, departments or agencies occurs.

Section 47.5. (Continued)

"I further understand that no officer, board, commissioner or appointing authority of the County, elected or appointed, shall have the power to grant amnesty to any person who violates the prohibition in Section 47.5 of the Charter against instigating, participating in, or affording leadership to a strike against the County, or engaging in any concerted action to withhold services from the County, or any of its departments, commissions or agencies."

(i) In the event that an employee organization has instigated, participated in or afforded leadership to a strike against the County of Los Angeles, or any of its departments, commissions or agencies; or to any concerted action to withhold service therefrom; the Board of Supervisors of the County of Los Angeles is hereby prohibited from granting any improvement of wages, hours, or working conditions to employees represented by that organization beyond those in effect or last offered by the County prior to the commencement of such strike or concerted activity, until the commencement of the meet and confer negotiations for the next bargaining year at a time regularly scheduled for commencement under County policy and provisions governing such negotiations. This remedy shall not preclude the County of Los Angeles from securing any other equitable or legal relief to which it may be entitled under State law.

(j) If any provisions of this Section 47.5 or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Section which can be given effect without the invalid provisions or application; and to this end the provisions of this Section are severable.[120]

Section 48. Every person who shall have been in the service of the County, continuously, for one year, shall be allowed a vacation for not less than two weeks on full pay, annually.[121]

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[120] *1982 Addition. Proposed by Board of Supervisors August 3, 1981, ratified at general election November 2, 1982, accepted by and filed with Secretary of State December 13, 1982, published Stats. 1982, Charter Chap. 29.*

[121] *1958 Amendment. Amended by Stats. 1959, Resolution, Chap. 7, P. 5344 at 5346. Because of the provision of this Section, Sec. 47 supra does not require that vacations in excess of two weeks be granted. Wilson v. Board of Retirement, 156 Cal. App.2d 195 at 211, 319 P.2d 426 (1957).*

Section 49. The Board of Supervisors shall prohibit enforced labor without compensation as a penalty for the commission of public offenses. The net earnings of all County prisoners, based upon reasonable compensation for service performed, shall go to the support of their dependents, and if such prisoners have no dependents, such net earnings shall accumulate and be paid to them upon their discharge.

ARTICLE XI.

Recall

Section 50. The provisions of State law applicable to the recall of County officers shall apply to the recall of elected County officers.[122]

ARTICLE XII.

Miscellaneous

Section 51. Each County or township officer, Board or Commission shall appoint, from the eligible civil service list, for either permanent or temporary service, all assistants, librarians, deputies, clerks, attaches and other persons in the office or department of such officer, board or commission, as the number thereof is fixed and from time to time changed by the Board of Supervisors; provided that appointments to the unclassified service in their respective offices and departments shall be made by such officers, boards and commissions, without reference to such eligible list.

[122] *1978 Amendment. Amended by Stats. 1978, Charter Chap. 29.*

Section 52. The compensation of an elective County or township officer shall not be increased nor diminished during the term[123] for which he was elected, nor within ninety days preceding his election;[124] provided, however, that the Board of Supervisors may adopt an ordinance thirty or more days preceding the election increasing or diminishing the salary of an elective office upon taking office of a new officer who was not the holder of the office during the immediately preceding term. Whenever the Board of Supervisors fills a vacancy pursuant to Section 16 of this Charter, the compensation of the office may be increased or diminished by an ordinance adopted prior to the appointment of the new officer.[125]

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[123]*The amendment of the Butte County Charter, consolidating offices and reducing the salary of the probation officer is in violation of Article XII of said charter which prevents the increase or decrease of compensation during the term of an elective or appointive officer. (dictum) Bybee v. Richards, 134 Cal. App. 467, 35 P.2d 472 (1933).*

Where an elective township officer entered into office at noon on a certain day, the Board of Supervisors of San Bernardino County could not diminish his compensation by an emergency ordinance passed afternoon on the same day, since Article VIII, Sec. 1 of the San Bernardino County Charter provided that the compensation of a township officer "shall not be increased or diminished during the term for which such officer shall be elected or appointed." Sawyer v. Berger, 34 Cal. App. 567, 168 P. 371 (1917).

The compensation of an elective County officer cannot be increased during his term of office by amendment to the charter since such an increase is in violation of Sec. 9 of Article XI of the Constitution providing: "The compensation of any county, city, town or municipal officer shall not be increased after his election or during his term of office." Shay v. Roth, 64 Cal. App. 314, 221 P. 967 (1923).

Where two amendments to the Butte County Charter were adopted at the same election (1) that the salary of the assessor should be reduced, and (2) that the compensation elective officers should not be increased or decreased during the term for which they were elected, it was held that the assessor's salary was not to be reduced until the expiration of his term. Morton v. Richards, 134 Cal. App. 665, 26 P.2d 320 (1933).

Under a 1944 amendment to former Sec. 5 (now repealed) of Article XI of the Constitution and Deering Act 5625, Stats. 1945 Chap. 5, P. 316 passed pursuant thereto, a county ordinance increasing salaries of elective officials during the war and for a period of time after its termination is valid and applies to existing incumbents notwithstanding this Section of the charter. Holland v. Byram, 28 Cal.2d 567, 170 P.2d 938 (1946).

[124]*The salary of an elective officer is the amount fixed by the law in force on the 91st day prior to election. Cline v. Lewis, 175 Cal. 315, 165 P. 915 (1917). See also County of Los Angeles v. Hammel, 26 Cal. App. 580, 147 P. 983 (1915).*

Such a provision if constitutional. Pulcifer v. County of Alameda, 29 Cal.2d 258, 175 P.2d 1(1946).

Former Sec. 5 (now repealed of Article XI of the State Constitution and this Section "…do not prohibit a salary increase for an officer elected to fill an unexpired term where the increase is adopted a sufficient time prior to the election to comply with any local provisions." McKesson v. Lowery, 51 Cal.2d 660, 335 P.2d 662 (1959).

[125]*1994 Amendment. Amended by Stats. 1995, Charter Chap. 8.*

Section 53. Whenever any person in the service of the County is compelled to travel in the performance of his duty, he shall, in addition to his regular compensation, be reimbursed for his actual necessary expenditures for transportation, the hire of conveyances, and for lodging and meals. An itemized account of such expenditures shall be filed with the Clerk of the Board of Supervisors and be approved by the Auditor before being paid. The Board of Supervisors shall fix a maximum price to be paid for such lodging and meals, which shall be uniform and be made applicable to all persons alike, including members of the Board of Supervisors.

Section 54. No attorney, agent, stockholder or employee of any firm, association or corporation doing business under or by virtue of any franchise granted by, or contract made with the County, shall, nor shall any person doing such business, nor shall any person financially interested in any such franchise or contract, be eligible to hold any appointive County office, the holding of which office empowers the incumbent to enter into or approve any such franchise or contract.[126]

Section 55. The District Attorney, Public Defender, County Counsel, and their deputies, shall not engage in any private law practice, and they shall devote all their time and attention during business hours, to the duties of their respective offices.

[126] *1948 Amendment. Amended by Stats. 1949, Resolution Chap. 9, P. 2880 at P. 2883.*

Section 56. Nothing in this Charter is intended to affect, or shall be construed as affecting, the tenure of office[127] of any of the elective officers of the County or of any districts, township or division thereof, in the office at the time this Charter goes into effect, and such officers shall continue to hold their respective offices until the expiration of the term for which they shall have been elected unless sooner removed in the manner provided by law; nor shall anything in this Charter be construed as changing or affecting the compensation[128] of any such officer during the term for which he shall have been elected.[129] But the successors of each and of all such officers shall be elected or appointed as provided in this Charter, and not otherwise.

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[127]The Charter in its entirety contemplates that as to elective officers made appointive by its provisions, successors may be appointed at the expiration of their terms of office to which they were elected. An officer elected under the provisions of the general law cannot be removed pursuant to a subsequent charter provision until the expiration of his office, but he may be removed pursuant to the general law provisions. Hunt v. Superior Court, 178 Cal. 470, 173 P. 1097 (1918). This Section, together with the former Constitution Sec. 7 1/2, Article XI, prevents either the removal from or extension of the term of office under Charter provisions of an elective officer holding office when the charter took effect.

[128]Fees Collected by the sheriff which he is entitled to keep under Gov. Code Sec. 26749 are part of his "compensation," and where the sheriff was elected before the adoption of the charter, he is entitled to keep such fees until the expiration of this term, despite Sec. 15, Article IV of the County of Los Angeles v. Hammel, 26 Cal. App. 580, 147 P. 983 (1915).

[129]Section 4 is limited by Sec. 56. All elective County officers whose terms commenced before the charter went into effect should during such terms continue to draw the salaries which attached to such officers under the general laws of the state. Pridham v. Lewis, 30 Cal. App. 395, 158 P. 333 (1916).

Section 56 1/4. The Board of Supervisors may contract with a city, district, public agency or political subdivision in the County for the performance by its officers or employees of any or all of the functions or duties required or authorized to be performed by the County or any County officer within the territorial limits of such city, district, public agency or political subdivision, whenever in the case of a city organized under Section 8 of Article XI of the Constitution, the discharge of such functions or duties by city officers or employees is authorized by its charter, or whenever in the case of any other city, district, public agency or political subdivision the discharge of such functions or duties by its officers or employees is authorized by law.[130]

Section 56 1/2. Said County shall have power and authority to provide for the assumption and discharge of, and to assume and discharge, by County officers, any of the municipal functions of any of the cities and towns within said County, whenever, in the case of its cities and towns incorporated under general laws, the discharge by County officers of such municipal functions is authorized by general law, or whenever in the case of cities or towns organized under Section 8 of Article XI of the Constitution of the State of California, the discharge by County officers of such municipal functions is authorized by the provisions of the charters or by amendments thereto, of such cities or towns.[131]

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[130] *1958 Addition. Added by Stats. 1959, Resolution Chap. 7, P. 5344 at P. 5347.*

In City of Pasadena v. County of Los Angeles, 235 Cal. App.2d 153, 45 Cal. Rptr. 94 (1965) the court upheld a contract whereby in consideration of monetary payments by the County to the City, the City Health Officer performed the duties of the County Health Officer within the boundaries of the City of Pasadena.

[131] *1934 Addition. Added by Stats. 1935, Resolution Chap. 31, P. 2440 at P. 2441.*

Section 56$^{3/4}$. The Board of Supervisors may require any County department, officer or Commission to perform any or all of the functions of any department, officer or Commission of any city, district, public agency or political subdivision in the County whenever requested by such city, district, public agency or political subdivision. The terms and conditions upon which such functions are to be performed by the County shall be fixed by agreement, which may provide for the consideration to be paid to the County, the blanketing into County civil service with or without examination of any or all officers or employees who have been performing such functions or such city, district, public agency or political subdivision for at least six months, and for the terms and conditions upon which such persons are to be employed in the classified service of the County, including seniority, efficiency, sick leave, vacation and all other rights or benefits granted County employees.[132]

Section 56$^{4/5}$. The County shall not have the power to provide for the assumption or discharge by County officers of any of the functions of a county formed after June 1, 1978, from territory which prior to that date was part of the County of Los Angeles. Nothing in this Section shall be construed to prohibit mutual aid pacts.[133]

[132] *1954 Addition. Added by Stats. 1955, Resolution Chap. 20, P. 3788 at P. 3791.*

[133] *1978 Addition. Added by Stats. 1978, Charter Chap. 29.*

Section 57. This Charter shall take effect at noon on the first Monday in June 1913.[134]

We, the undersigned, members of the Board of Fifteen Freeholders of the County of Los Angeles, in the State of California, elected at a special election held in the said County on the 14th day of May 1912 to prepare and provide a Charter for the said County, under and in accordance with Section 7 1/2 of Article XI of the Constitution of this State, have prepared, and we do hereby propose, the foregoing as and for a Charter of said County.

In witness whereof, we hereunto sign our names in duplicate this 24th day of September 1912.

LEWIS R. WORKS, Chairman
FREDERICK BAKER.
WILLIS H. BOOTH.
T. H. DUDLEY.
WILLIAM A. ENGLE.
DAVID EVANS.
H. C. HUBBARD.
J. M. HUNTER.
GEO. F. KERNAGHAN.
FRANK R. SEAVER.
J. H. STRINE.
CHARLES WELLBORN.

[134] *A charter is effective upon filing with the Secretary of State, but may itself provide for a certain operative date. 10 Ops. Atty. Gen. 1 (1947).*

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