

# **THE PROSPECTS FOR COUNTY CHARTER REFORM IN CALIFORNIA**

By

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## EXECUTIVE SUMMARY

State officials and citizen commissions have wrestled for years with the challenge of making county government more efficient and responsive to the public. As a level of government that stands between the municipality and the state, the county seems the place where sensible decisions are made about structures of service delivery. The county could, in theory, be close enough to where services are delivered to foster a workable division of labor among local governments, and far enough above the patchwork of cities and special districts to devise broad solutions. The reform of county government might therefore offer a way to improve local government as a whole.

Understanding this, the purpose of this report is to examine the experience of states that have sought to encourage the reform of county government through the process of charter reform. A summary of specific findings follows:

- The movement to reform local government has had greater impact on city government than on county government.
- Cities have a much greater degree of home rule than counties.
- The commission form of government used by many counties has little support among students of local government.
- California pioneered the creation of county home rule and had the first county charters in the nation.
- California state officials and citizen commissions have wrestled for years with the challenge of making county government more efficient and responsive to the public.
- From the standpoint of county officials, however, the state government often makes it difficult for the county governments to be effective.
- The high hopes of those who favored county reform were rarely rewarded until after World War II.
- Most state governments now provide some form of home rule for counties, but most counties do not choose to implement charters. Those that do tend to be populous, urban centers, and often include significant shares of state populations.
- The frustrations of reforming county government in California are mirrored in other big states.
- State legislatures are often reluctant to grant fiscal home rule authority to county governments.

- Charters presented to the voters are more likely to lose than to win. An exception is county charters that are associated with a city, such as in San Francisco.
- Opposition to county charters often derives from “row officers,” elected officials who do not wish their elected offices to become appointed; from labor unions who feel secure with existing arrangements; from incumbent members of the Boards of Supervisors; and from taxpayer groups.
- Support for county charters often comes from civic organizations, from business interests, the newspapers, and from some elected officials.
- Where charters have prevailed, a state has made a major effort from the start to incorporate a broad range of interests and to develop a political strategy so that the charter will be appealing to the public. The interests and concerns of potential opponents need addressing early in the process.

## POLICY RECOMMENDATIONS

Based upon the findings summarized above, I offer the following policy recommendations:

- The State of California should make available a new option known as *advanced home rule* for which counties would become eligible by undertaking and completing a comprehensive charter reform process involving the various governmental jurisdictions within the county.
- Advanced home rule would include one or more of the following fiscal measures as: a majority vote for local tax measures and a prohibition against the state preempting local property tax funds other than those reserved for the schools.
- Advanced home rule would also include measures to provide greater flexibility to counties in the implementation of state-mandated service delivery.
- The State of California should set a limited goal of charter reform in a small number of counties with large populations. The focus should be on the percentage of the population included in these counties, rather than the percentage of all counties participating.
- The State of California should create a technical-assistance-working group to help counties undertaking the reform process. The working group might include the: California Association of County Governments; League of Women Voters; Institute for County Government, CSUS; and the National Civic League.
- The State should explore ways to set broad goals and objectives for reorganization of local government as a means of encouraging counties to participate in the process of reform.
- The State should foster and encourage discussion among California counties of reforms – such as the elected County Executive – used widely in other parts of the nation.
- Where possible, the State of California should encourage civic groups within counties to lobby county supervisors to pursue reform. The option of petition drives should be discussed and considered by such civic groups.
- Discussions should begin with organized labor at the state and county level at the earliest opportunity. State officials can set the stage for confidence building measure to provide assurance that no reform program intends to eliminate benefits won through collective bargaining.

## I. INTRODUCTION

California's 58 counties have major responsibility for the delivery of services to California's residents. Their efforts overlap with 470 cities, 4,816 special districts, 399 community redevelopment agencies, 993 school districts, and 71 community college districts (Commission on Local Governance for the 21<sup>st</sup> Century, 2000, p. 12). The bewildering array of nearly 7,000 local governments has made accountability and efficiency difficult to achieve.

State officials and citizen commissions have wrestled for years with the challenge of making county government more efficient and responsive to the public. As a level of government that stands between the municipality and the state, the county might be the place where sensible decisions can be made about structures of service delivery. The county could, in theory, be close enough to where services are delivered to foster a workable division of labor among local governments, and far enough above the patchwork of cities and special districts to devise broad solutions. The reform of county government might therefore offer a way to improve local government as a whole.

From the standpoint of county officials, however, the state government often makes it difficult for the county governments to be effective. County officials have been complaining for well over a decade about the difficulty of aligning their responsibilities for service delivery with the fiscal resources and flexibility required to carry them out. Since the passage of Proposition 13 in 1978, limiting the property tax, and Proposition 98 in 1988, redirecting property taxes from the county governments to school districts, counties have seen control of their revenue pass increasingly out of their hands. At the same time, state and

federal mandates and public demand for services, especially in the big urban counties, threaten to outstrip the delivery capacity of counties.

In 1996, the California Constitution Revision Commission identified the two-sided problem of reforming county government: “the current structure of local government is confusing and fragmented”, and “the power of local governments and schools to make choices about the level of quality of public services has eroded.” Could the *solutions* to the two problems be interconnected? Would incentives based on home rule encourage the counties to tackle the problem of governmental fragmentation?

*The Constitution Revision Commission proposed to combine home rule with governmental reform through the charter reform process.* The Commission recommended (1996: Chapter V) that California counties be mandated to establish Community Charter Commissions, which would propose methods of providing more efficient and responsive service delivery.

Each commission would have representation from the county, from special districts, and from municipalities. The commission would develop a Governmental Services and Financing Plan to be placed before the voters as a Home Rule Community Charter in 2000.

The Constitution Revision Commission proposed that the Constitutional vote requirements for local taxes and general obligation bonds be reduced from two-thirds to a simple majority. Once a county adopts a charter, the state could not reallocate the non-school share of the property tax or other general-purpose local taxes allocated by the Home Rule Community Charter.

These changes would constitute a major increase in county home rule in California. While all California counties have enjoyed the right to implement home rule charters since

1911, county home rule largely consists of the authority to frame charters with governing systems different from the standard five-commissioner format, and to reduce the number of “row officers” (elected officers other than county supervisors) from six to three.

Limitations on county home rule are common in the West. An analysis of charters in the western states indicated that “county charters clearly offer the greatest opportunity for change in the area of structure. An explicit grant of home rule powers, supposedly the heart of the charter concept, appears primarily in preambles, not in legal provisions. Further, charters do not provide much opportunity for expanded fiscal or functional powers” (Cowan and Salant, 1999: p. 156).

The Constitution Revision Commission’s recommendations were defeated in the State Legislature in 1996. In 1998, Assembly Member Bob Hertzberg introduced AB 2368 to implement the Commission’s recommendations on a statewide basis. As a result of opposition to this measure, it was revised to apply only to Los Angeles County, drawing on traditional deference to “district legislation.” Even so, the measure ultimately failed to win approval in Senate committee.

Under the Hertzberg plan, a citizens’ commission would be appointed, and would design a plan for the structure of service delivery. The plan would have to be submitted to the Board of Supervisors and receive the support of a majority of the cities representing a majority of cities’ population to be placed on the ballot. AB 2368 would have given Los Angeles a 10% reduction in its property tax shift to the schools.

Opposition emerged from special districts. The measure did not make it out of the Senate Local Government Committee. The Committee raised several concerns (see analysis for July 1, 1998 committee meeting): would the county take the money and run without

doing real reform, turn special districts into second class citizens through the reform process, compete with other commissions proposed by the state, wrongly exclude other counties, and interfere with municipal charters?

Despite these setbacks, interest continues in proposals for the State of California to encourage county charter reform and reorganization. An exploration of county charter reform efforts throughout the United States may help provide an assessment of the prospects for such reforms in California. The purpose of this report is to examine the experience of states that have sought to encourage the reform of county government through the process of charter reform. More specifically, this report explores the following questions:

**(1) Which states have authorized their counties to implement home rule through charter reform?**

**(2) Within those states, what has been the extent of county charter reform?**

**(3) What incentives were important to counties in undertaking charter reform?**

**(4) What were the factors in the success or failure of charter reform at the polls?**

**(5) What benefits, if any, have accrued to the operations of local government through county charter reform?**

**(6) What recommendations are relevant to the State of California in the area of county charter reform?**

## **Research Methods**

A combination of archival research and interviews makes up this study. Students of county charter reform have compiled lists showing the numbers and locations of county charters (e.g., Cowan and Salant 1999). My research assistant, Tim Suh, sent emails to the executive directors of the Association of County Governments for each of the 50 states, soliciting their input on the state of county charter reform in their states.

Based on this initial survey, I identified states with important characteristics in common with California: large populations, major urban centers, and interest in county reform. In those states and counties, I searched newspaper archives for description and analysis of county charter reforms. I followed up with interviews of key participants in county charter reform efforts in those states (see list of interviewees). Finally, I interviewed knowledgeable people involved in California county government to assess the prospects for county charter reform.

Where appropriate, I have drawn on the recent experience of successful charter reform in the City of Los Angeles. I also draw upon my experience as executive director of the appointed Los Angeles Charter Reform Commission between 1997 and my observations on the passage of a new city charter in 1999. While city and county charter reforms are different, there may be useful lessons to be drawn from the Los Angeles example.

## II. COUNTY CHARTER REFORM

The American county is a remarkably stable, if widely overlooked level of government. All but two of the 50 states (with the exceptions of Connecticut and Rhode Island) are divided into functioning county governments. There have been very few changes in the numbers and boundaries of American counties, even as city borders, congressional districts, special districts, and other divisions of government have shifted all over the map.

There are currently 3,067 counties in the United States. Most counties are small. Those with populations under 50,000 residents comprise nearly three-quarters of all counties (National Association of Counties, [www.naco.org](http://www.naco.org)). Most Americans therefore live within a relatively small number of counties.

American counties are an outgrowth of the English shire, which acted as the administrative arm of the national government as well as the citizen's tie to local government. Unlike states, counties and other local governments have no formal status under the United States Constitution.

Counties generally follow one of three forms of government: commission, commission/administrator, or council-executive. The commission system is the basic "unreformed" county government; an elected commission exercises both legislative and executive authority. The two "reformed" structures of county government grant legislative authority to a commission or council, but also appoint or elect an executive who manages the county's day-to-day affairs. Where there is an appointed manager, the elected body may still hold legislative and executive power, or it may only hold legislative authority. More than a third of the nation's counties operate under a reformed system, with either a county manager or an elected chief executive (Morgan and Kickman, 1999).

At the beginning of the 20<sup>th</sup> century, the commission form of government enjoyed a burst of popularity in cities. However, it soon died out, and rarely appears in today's cities. Most city governments today utilize either the council-manager or the mayor-council form. The persistence of the commission form in county government is evidence that the reform movement, so successful in city government, has often bypassed county government.

The Model County Charter adopted by the National Civic League has long recommended that counties move from the pure commission form to a county manager form of government. In its 1990 revised Model County Charter, the League added its support for the elected County Executive (National Civic League 1990: pp. 70-76).

The divergence between reform movements in counties and cities began more than a century ago. In the 19<sup>th</sup> century, Dillon's Rule, a doctrine enunciated by Chief Justice John Dillon of the Iowa Supreme Court that all local government was just a creature of state government, hamstrung local government (Logan 1999). The context for Dillon's Rule was the desire to eliminate corruption from local government, whose top officials often insisted that they were independent of state control.

By the late 1880's, many city governments had begun to emerge from the shadow of Dillon's Rule. State governments began to authorize home rule for cities. Cities were empowered to write and enact charters, subject to a vote of the people. With the growth of home rule and city charters, the Progressive urban reform movement had a mechanism to examine and alter the structure of city government. In city after city, especially in the west and southwest, Progressive reformers instituted city managers, at-large city councils, nonpartisan elections, and other aspects of the reform agenda.

In 1911, California voters amended the State Constitution to implement a massive Progressive agenda for local government, including nonpartisan local elections and home rule charter authority for cities and counties. California became the first state in the nation to authorize county charters, raising hope about the future of county reform.

Although the California Constitution refers to the counties as “legal subdivisions of the state,” (Article 11, Section 1 (a)), the Constitution offers a degree of home rule: “For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question.” (Article 11, Section 3 (a)). Such a charter may be proposed by the governing body of the county, or by initiative, through an elected charter commission. Charter counties must provide for a governing body of at least 5 members, and an elected sheriff, district attorney and assessor (Article 11, Sections 4 and 5). All other offices may be appointed or elected, as the charter provides.

The State Constitution also established a basic framework for general law (non-charter) counties. The Constitution authorizes the Legislature to create elected offices that must be utilized by general law counties. General law counties are required to have an elected Board of Supervisors and a much longer list of “row officers”, including assessor; auditor/controller; recorder; county clerk; district attorney; sheriff; superintendent of schools; treasurer; and tax collector.

Charter counties could establish their own form of organization subject to the requirement to have an elected district attorney, sheriff, and assessor. Charter counties could choose, for example, to have an appointed or elected executive under their own charter. Clearly, charter counties have the freedom to change these offices, but beyond that, as one

knowledgeable person noted, “there is not a great difference between what general law and charter counties can do” (Szalay interview).

Almost immediately after the adoption by the voters of the 1911 state Constitutional amendments, two California counties, one with the largest population (Los Angeles) and one with the largest land area (San Bernardino), created charters that won voter approval. These counties became the first in the nation to adopt charters (Miller 1913).

Both counties adopted the reforms sought by Progressive reformers. They shortened the ballot, taking row officers and making them appointive. They systematized the purchasing function under a central officer. Both counties established the merit system and civil service in all branches of the county government. A close observer believed that the new charters would enhance home rule: “Under such charters it will no longer be possible for the legislature to pass acts creating for a particular county, new county officers with fat salaries or to increase the salary, or the appointive power of some county officer, as is now done at almost every session of the legislature.” (Miller, 1913: p. 418).

Miller concluded, “It seems probable that the examples of Los Angeles and San Bernardino counties soon will be followed by a number of other California counties, and if the experiment proves successful, as seems probable,” that it would spread nationally (Miller, 1913: p. 419)

Miller was overly optimistic. While city government continued to be a major site for governmental reform, through the design and redesign of city charters, counties languished as the backwaters of local government reform. In 1952, a national revisit to county reform by Clyde F. Snider found that “home rule, in the sense of constitutionally granted authority to frame and adopt local charters and thereby determine local organization, has made less

progress in the case of counties than in the municipal field” (1952: p. 69). Snider found that initial interest in city-county consolidation, one of the original hopes for county reform, had almost completely evaporated.

Snider suggested that one reason for lack of reform was that cities normally received much more generous grants of home rule than counties, providing a much greater incentive for charter activity. Snider found that urban and larger counties were much more likely to adopt charters than other counties. He identified, as the single most important reform needed in county government, the creation of a county executive, whether elected or appointed. He also called for greater flexibility for counties in revenue sources, an issue that was to be a constant feature in the debate on county reorganization.

In California, progress on county charter reform slowed considerably after the early burst of excitement following the 1911 Constitutional amendments for home rule. Of the state’s 58 counties, only 13 ultimately adopted charters. Seven out of the 10 largest counties currently have charters, compared to only 6 out of the remaining 48. In 1996, Orange County voters turned down a charter drafted by a citizens’ commission.

As a result of the great size of charter counties, however, nearly two-thirds (64%) of Californians live under county charters. The chart below indicates the charter counties in California, listed in population order.

**Table 1: California Charter Counties and Population Rank**

Los Angeles	1
San Diego	2
Santa Clara	4
San Bernardino	5
Alameda	7
Sacramento	8
Fresno	10
San Francisco	11 (consolidated city-county per state legislation)
San Mateo	13
Placer	25
Butte	27
El Dorado	30
Tehama	40

Even charter counties have been cautious in using their home rule authority. The most dramatic governmental change occurred in 1856, when the city of San Francisco joined with its county to create a consolidated government that exists to this day. The initiative for this consolidation came from the city of San Francisco, but it was imposed by the State Legislature (Barlow, 1991: pp. 235-36). With its combined city and county government, San Francisco has been more like a city than like a traditional county in its charter approach. In the 1990's, for example, San Francisco undertook two major, successful charter reforms to increase the power of the Mayor.

No other California government followed San Francisco's example in city-county consolidation. Several counties adopted county administrative officers, an important improvement over the traditional commission form of government.

Not a single California county has an elected county executive, if we exclude the mayor of San Francisco. The county executive is much more common in the northeastern

and southern states. However, elected county executives can also be found in some western states, including Alaska, Hawaii, and Washington (Cowan and Salant, 1999: pp. 100-01).

Finally, other than San Francisco, which has 11 city-county supervisors, all 57 other California counties have exactly 5 members of the county board of supervisors, even though the state Constitution only requires that charter counties have a *minimum* of 5 members.

While the pace of reform in California slowed, other parts of the country were moving ahead. As California lost its role as pioneer in county charter reform, the idea of county charter reform spread from west to east (Cowan and Salant, 1999: p. 4). After World War II, there was a dramatic increase in the number of states granting home rule authority to counties. An explosion of county reform activity occurred in the 1970's and there was significant activity in states after that.

As of 1989, nearly half of states with organized counties had granted home rule, the most since World War II (Martin and Nyhan, 1994). By 1996, 79% of the states with viable county governments had home rule powers for counties, including 77% of the nation's counties (Cowan and Salant, 1999: p. 5). A total of 129 counties, or 4.2% of the total, operated under charters, more than 10% of all eligible counties (*Ibid.*, p. 5). Because county charters were likely to be concentrated in populous urban areas, a higher share of the nation's population lives in charter counties than these figures would suggest.

Still, there were many more attempts than successes. It was difficult to win voter support for new county charters. Of all attempts nationwide between 1990 and 1998, only 32.4% were successful. The record in the western states was even lower, a 26% success rate (Cowan and Salant, 1999: p. 10). By the end of the decade, charter activity was concentrated in several states within the Pacific Coast region and the northeast corridor.

Why do some states grant home rule authority to counties and others do not? A 1994 study found that “growth spawns citizen pressures for more urban services and consequently more county discretionary authority through the mechanism of charter home rule” (Martin and Nyhan, 1994). Sophisticated states with competitive party systems were more likely to grant home rule. States that had a large number of municipalities, however, were less likely to grant home rule to counties, presumably because of opposition from municipal leaders.

In other words, state grants of home rule authority to counties, and county willingness to utilize home rule to adopt charters are both related to urbanization and growth. Those counties that have modernized modernize more. County charter reform is not for all states, nor is it for all counties. The vast majority of American counties are very small. Unlike city reform, which touched even the smallest American cities, there is no compelling rush or realistic prospect to bring reform to each county. As indicated in table 2, by 1997, county home rule charters were concentrated in a number of major states.

**Table 2: Charter Counties in the United States, By State**

Alaska	5
California	12
Colorado	2
Florida	16
Hawaii	3
Louisiana	17
Maine	1
Maryland	8
Massachusetts	2
Michigan	1
Minnesota	1
Missouri	3
Montana	1
New Jersey	6
New Mexico	1
New York	19
North Dakota	3
Ohio	1
Oregon	9
Pennsylvania	6
South Dakota	2
Tennessee	2
Virginia	3
Washington	5
Total:	149

Adapted from Table 1-2, Cowan and Salant, 1999, page 6.

### **III. Case Studies**

This section presents case studies of states or counties that attempted significant charter reforms with mixed results. Defeats are as useful as victories for learning what will contribute to successful county reform.

The goal of this section is to present states that are comparable to California, and to incorporate the experience of the East, Midwest, and Southern regions into the California discussion. For a perspective on the western experience, the compilation of county charter reforms in the West by Cowan and Salant (1999) is excellent.

The case studies include states that are comparable in size and urbanization to California, from a variety of settings. In addition, the case study of Los Angeles County is particularly important in designing programs that will be workable in California.

#### **Florida: Searching for Fiscal Home Rule**

Where states grant home rule authority to counties, there is an expectation that there will be significant and continuing governmental reform. Those who observe county government often describe only an initial burst of charter activity. Florida provides a good illustration of this phenomenon.

Florida amended its Constitution in 1968 to allow counties to create home rule charters. Florida charter counties have one major fiscal advantage over non-charter counties: they can levy a utility tax in the same manner as municipalities (Florida Counties Foundation, 1999). Within unincorporated territory, Florida counties can levy any tax that municipalities can (1996 Florida Local Government Formation Manual, 1-11).

There was an early burst of charter reform in the 1970's. Interest in charter reform soon slowed, and counties became extremely reluctant either to pursue new charters or to

improve existing charters. The relentless opposition of county row officers discouraged any attempts to use the charter process (Root interview).

Even with this reluctance, Florida has had a strong record of county reform. At present 16 out of the state's 67 counties have adopted charters, a higher percentage than in California. Not surprisingly, charters were adopted in predominantly growing, dense urban areas, and as a result more than three-quarters of Floridians live in charter counties (Smith interview). On the other hand, the charters have rarely ventured into bold reforms, usually settling for "starter charters" with minimum change from existing systems of governance (Ibid.).

According to Lance DeHaven Smith (interview), a scholar who participated in state and county governance commissions, "the original hope was that home rule would lead to city-county consolidation, but voters defeated it 25 times. They saw it as big government, and felt very distant from county government anyway. Anti-tax groups were very emotional about it."

In 1996, the state legislature established the Commission on Local Government II, a successor to an earlier commission. The commission found the same sort of problems that have emerged in California: "local governments in Florida are caught between two conflicting trends: rising demands for urban services and declining local government capacity" (Commission on Local Government II, 1998: p. 12). The report bemoaned the difficulty of using charters to enact reform, since less than a quarter of the 67 counties had adopted home rule charters.

The Florida commission recommended: "fiscal home rule would be a simple and practical way to facilitate local government reorganization in Florida." The commission also

called on the state to eliminate un-funded mandates, and to take fiscal responsibility for the court system.

The commission called for the voluntary, not state-mandated, establishment of county commissions on governance very similar to those called for by the California Constitution Revision Commission (CRC). In fact, those who worked on the Florida commission reported that they were closely watching the California effort (Smith interview). Like the CRC, the Florida group experienced the frustration of seeing its recommendations ignored or rejected. As in California, the state legislature was unwilling to take the steps necessary to implement the commission recommendations.

While Florida state legislators were notably unenthusiastic about giving greater fiscal authority to counties, it has been mentioned as the most likely incentive for county charter reform (Root interview). State officials however, did agree to one change proposed by the commission: that the state takes over the cost of operating the court system. County officials had been complaining that counties had been paying the bills for what was essentially a state function. The Legislature agreed to place the recommendation for a state assumption of court costs onto the ballot, and the voters thereupon passed it. One local observer noted, however, that in the period since the passage of this measure, the state began cutting county revenue in other areas to make up the state shortfall due to the assumption of court costs (Root interview).

Even if the state had taken action, there were significant obstacles to the creation of county charter commissions that would win voter approval to make major changes in governance. “Row officers”, particularly sheriffs, represented a severe challenge to any attempt to change governance structures (Root interview). Row officers were prone to resist

any and all attempts at charter reform even if the reform contemplated no change to row offices (Smith interview)

Unlike the California proposal, the Florida program would have made county participation in the reform process voluntary. Professor DeHaven Smith (interview) said that as a result of his experience with the Florida commission, his opinion was that it would have been a mistake to make the program entirely voluntary. He suggested that local opposition to charter reform, especially from row officers, hamstrings local officials. County officials might even welcome a state mandate as long as it did not include highly bureaucratic instructions and limitations. Smith suggested that the best solution might be a combination of a carrot and a stick: a mandate to conduct the governance review contemplated by the state, and upon the successful completion of that review, some additional fiscal authority and greater flexibility in how counties spend their dollars on mandated activities (Smith interview).

### **Los Angeles County: Flirting with Reform**

One California County that has shown some interest in structural reform is Los Angeles. Los Angeles has the largest population (9.2 million) and the largest budget (\$13.1 billion) of any county in the United States, and contains more than a quarter of the state's residents. Any county reform in Los Angeles would be critical to California's ability to deliver services. The driving force for Los Angeles County reform has been the imbalance in the fiscal relationship between the County and the State. The main structural reforms that have been discussed are an increase in the number of Board seats and the election of a County Executive.

In 1976, a blue-ribbon commission on county government issued a report *To Serve Seven Million*, which criticized the fragmentation and lack of accountability of county government (Public Commission 1976). The commission recommended that the county charter be amended to create an elected County Executive and to increase the Board of Supervisors from 5 to 9 members. The voters did not agree. Heavy majorities rejected a 1976 ballot measure to expand the Board. In 1992, voters turned down measures to increase the size of the Board and to create a County Executive.

In 1996, the Los Angeles County Board of Supervisors asked the County Citizens' Economy and Efficiency Commission to analyze the Constitution Revision Commission proposal for local government. While the Citizens' Commission took issue with some aspects of the CRC proposal (questioning, for instance, the CRC recommendation of sending structural changes directly to the voters without review by the Board of Supervisors), it strongly agreed with the goal of creating a charter commission (*Los Angeles County Citizens' ... 1997*). The Citizens' Commission presented the then-ongoing effort to reform the Los Angeles City Charter (approved by the city's voters in 1999) as a model for county charter reform.

Under considerable pressure from the Legislature, the Board took up these structural reform issues in 1999. State Senator Richard Polanco (D-LA) was threatening to place a measure on the *statewide* ballot to increase the size of the Los Angeles County Board of Supervisors. The fear that voters in the other 57 counties might be able to determine how Los Angeles County Supervisors were elected deeply affected Los Angeles County's elected officials.

There was support from three of the five county supervisors for an elected County Executive and two or three members favored an expansion of the Board to 9 members. Only two of the five supervisors, however, favored the creation of a public commission to explore the issue and make recommendations. The pressure from the state, largely from Senator Polanco, was only aimed at the Board expansion and not the creation of a County Executive. Ultimately, the Board decided against creating a public commission (Molina 1999), and placed the expansion on the November 2000 ballot without the County Executive proposal. Without the County Executive feature, the measure enjoyed little support from good government groups, and was defeated by a 2-1 margin.

Thus, the nation's largest county flirted with serious reform, but fell short. There was insufficient support on the Board of Supervisors to create a public commission that might have built a public constituency for reform. The County Executive proposal would have been a radical innovation for California, but might have created an office that would take the lead on future reforms.

The choice of Board expansion as the only reform measure to take to the public was a suicide mission. Evidence from the Los Angeles City Charter reform of 1999, in which two companion measures to increase the size of the city council were crushingly defeated while the main charter passed, seemed to indicate little likelihood of success for an increase in the size of the Board without accompanying measures far more popular with the public.

### **Pennsylvania: How Allegheny County Got Its Charter**

In 1968 and 1972, the State of Pennsylvania provided home rule to cities and counties. There was considerable excitement about home rule and some of the more populous urban counties adopted them. As in Florida and California, the initial surge of

county charter reform soon died down. Of the 62 counties of Pennsylvania six now have charters. These six counties contain nearly 25% of the state's population.

During the 1970's, when there was still considerable enthusiasm for county charter reform, Allegheny County (in which Pittsburgh is located) made two unsuccessful attempts to adopt charters. Elected charter reform commissions promoted both.

In 1974, a charter was placed on the ballot that would have eliminated some of the popular "row officers" and would have guaranteed positions for women and minorities on county governing boards. It lost with 54% voting "no". In 1977, another attempt was made to enact a charter, but it suffered an even worse defeat.

Where there was a presumption that charter counties would have greater leeway in revenue generation, this very freedom provided the "kiss of death" politically because of fears of tax increases. The fiscal leeway that pleased county officials aroused some opposition from taxpayer organizations who preferred seeing the county government hamstrung from raising taxes (Jensen interview).

In November 1999, Allegheny County voters approved a new charter that created an elected County Executive and overturned years of defeat for charter reform. In the extremely close battle over passage of the Allegheny County charter, the margin was only 564 votes.

How did these changes take place, and what have been their impacts?

The roots of the new charter could be found in New Economy businesses whose leaders saw the passing of the steel industry as a signal for new forms of governance (Jensen interview). They were drawn to arguments that the existing government was archaic and inefficient, and that the proliferation of municipal governments made it difficult to get things done.

The principal opposition to reform came from the Democratic Party county committee, and from municipal officials. Opponents argued that taxes would be increased, and there was a concern from organized labor that existing arrangements with county supervisors would be replaced by a less fair system (Jensen interview).

Proponents of the new charter tried to reduce opposition by maintaining row officers until 2003. As a result, they split off some of the row officers from their expected opposition. An appointed blue ribbon commission designed the new charter, rather than the elected commissions that had designed the earlier charters (Jensen 2000).

Partisanship played a central role in the Allegheny County charter battle. Although the county was predominantly Democratic, Republicans took over a majority of the board in 1995. On the side of charter reform were business and Republican leaders. Organized labor and many Democrats were against it. State leaders, predominantly Republican, strongly backed the charter reform movement. Legislators passed amendments to state law to facilitate the adoption of county charters, over the objections of the Democratic minority. At the same time, a number of key Democratic reformers endorsed the new charter, bucking their own party leadership.

Opponents portrayed home rule as a vehicle to implement a new county income tax. In order to counter that argument, charter proponents included a “taxpayers’ bill of rights” and several other measures to increase voter authority over tax measures.

Although charter forces had a great financial advantage due to backing from business, they worked hard to blunt opposition and to build public support. Every bit of that effort was necessary, as the charter passed by only 564 votes out of 210,882 cast in the May 1998 election. Passage was assured by strong support in the most rapidly growing areas of the

county slightly edging out opposition from the older, declining population centers (Jensen 2000).

The next year, county voters selected a Republican businessman, Jim Roddey, as their first County Executive. Democrats, who had faced a Republican majority on the previous board of supervisors, now had a veto-proof majority of the 15 member County Council.

The new system has been relatively successful, by at least one measure: the ability of the County to obtain state funds. Another advantage has been the ability of the County Executive to speak effectively in negotiations over the airport, whereas in the past there have been multiple voices speaking for the County (Jensen interview). It is uncertain whether these benefits are more due to having a Republican County Executive dealing with a Republican governor and Republican state legislature. A possible disadvantage is that the new charter *limited* some of the county's taxing authority as a means to increase voter support. Financial analysts expressed some concern that under the charter, the County would have less financial flexibility to meet its needs (PR Newswire, 8/5/98).

### **Maryland: Blue Ribbon County Government**

There is high regard for county government in Maryland because of the extent of its home rule and the scope of its charters. The extent of county fiscal authority, the presence of elected County Executives, and significant direct responsibility for education and other key services, marks Maryland county government. In that sense, it is also characteristic of the greater role for county government in the southern states.

County home rule in nearly as old in Maryland as in California. In 1915, only four years after California became the first state to grant home rule to counties, Maryland voters amended their Constitution to provide charter home rule. In 1966, voters approved an

additional change to create “code counties.” Code counties have much of the home rule authority of charter counties, except that there is no provision for an elected council or charter. Those counties that operate under general law are called “commissioner counties.”

At present, there are 10 commissioner counties, 8 charter counties (one of which includes both Baltimore City and County), and 5 code counties. Among the charter counties, six have elected County Executives. In the other two counties, the elected council appoints an administrator.

Maryland counties are among only two in the nation (along with Indiana), which have the authority to levy an income tax. Maryland law allows charter counties to levy a surcharge on the state income tax up to 60% greater than the state tax. This surcharge is known locally as the “piggyback tax.” In addition, the counties have primary authority for raising property taxes and allocating them to the schools. The school budget in most counties is passed by the school board and then brought to the county governing board for authorization.

In other words, Maryland county government enjoys many of the benefits widely sought by students of county reform: widespread use of charters, adoption of County Executive or manager forms, county control of fiscal sources, and a connection between revenue sources and public expenditures. One outside observer noted, “In Maryland, county government *is* local government” (Jensen interview).

With these conditions in place, Maryland county government has been seen as generally successful. In 1993, Fairfax County was rated #1 in a national ranking of county financial management, and several other Maryland counties were highly ranked as well

(Washington Post, 7/1/93). In 1996, Montgomery County was ranked as one of the nation's 10 best counties in providing employment and training services (Washington Post, 2/1/96).

Despite the fiscal flexibility available to charter counties, no Maryland County has adopted a charter since 1973. Attempts have failed on several occasions in Cecil, Carroll, and Caroline Counties. Two counties have adopted the code status. Those opposed to the new charters argued that government would become bigger and more wasteful, and that tax rates would go up. Once again, fiscal home rule is a two-edged sword at times activating taxpayer resistance. As a result, Maryland resembles most states in that the most active reforms belong to the most urbanized, populous counties.

### **Iowa: The Failure of Charter Reform in Polk County**

The saga of doomed charter reform in Polk County, Iowa, stands as a sobering lesson to charter warriors everywhere. Des Moines is the capital of Iowa and the seat of Polk County. It holds nearly 70% of the county's population.

In 1977, a group of civic organizations funded a study of local government that called for the creation of a county charter commission (Hamilton and Tempero, 1992). In 1981, a Des Moines businessman started a group that called for changes in Polk County government (Des Moines Register (DMR), 10/13/93).

In 1988, the state of Iowa for the first time granted charter home rule authority to counties. In 1989, a Polk County charter commission was formed, a 40 member appointed body. The commission asked the county's 17 municipalities to join in the process in the interests of possible consolidation. Only the city of Des Moines responded, setting up its own commission in 1990 (Hamilton and Tempero, 1992).

The Iowa Code required that if the county formed a charter commission, the city also would have to create one, and that they would have to agree on a single charter. As a result, the two commissions merged, and even expanded to include several neighboring counties (Ibid.). The new commission was called the Greater Des Moines Charter Commission.

Des Moines eventually withdrew from the study of consolidation and the joint commission broke up into a study group with a regional focus (the Greater Des Moines Area Commission). The commission drafted new legislation to make it easier to conduct charter reforms; these changes were passed by the Legislature in 1991. It also proposed an elected County Executive model of government, and greater fiscal flexibility for local governments.

In 1992, a new Polk County Charter Commission was established, held public hearings, and began to design a charter. In August 1992, the commission decided not to submit a charter, but reconvened in November. By October 1993, the commission had approved a draft charter for the November 16, 1994 ballot. The proposed charter created an elected county mayor, and eliminated elections for sheriff, auditor, treasurer, and recorder. It also created a mayors' commission to give cities a voice in how services might be consolidated.

The pro-charter forces' confidence was bolstered by their own poll, which showed them leading 58-27% (DMR, 10/4/94). Charter group ran radio ads that accused the county government of mishandling numerous public policies (DMR, 9/24/94). Business groups backed the charter, but they were generating some serious opposition. Their full-throated attack on the government backfired.

In a public debate, a leading businessman and charter leader attacked the county government and its officials, who responded with bitterness (DMR, 9/7/94). The campaign

got off to a rocky start, when an accountant's report showed that the new charter would save \$90,000 from one provision; it was immediately noted that the charter election alone cost \$300,000 (DMR, 12/23/93). Meanwhile county officials went into the state Supreme Court, charging that the proposed charter violated the federal Constitution.

The charter forces had a huge financial edge, raising \$587,000 by November, mostly from 40 Des Moines corporations. Meanwhile, the no side had raised only about \$33,000 (DMR, 11/4/94). Facing hundreds of thousands of dollars from business interests, charter opponents accused business leaders of trying to buy the government.

A charter opponent noted ominously and accurately, "they've got all the money...we've got all the votes." (DMR, 9/28/94).

Most dangerously, the pro-charter forces took on the immensely popular county sheriff, Bob Rice, first elected in 1976, charging that his budget had increased too much and should be restrained by the new charter (DMR, 9/29/94). The county attorney, who was slated to lose his civil division under the new charter, joined the sheriff to blast the pro-side as anti-law enforcement (DMR, 10/5/94). In addition, the county Democratic organization was deeply fearful of the new charter, and was beginning to mobilize against it (DMR, 10/10/94).

Top Republican county leaders were also opposed. County employees were furious at pro-charter ads that seemed to attack the government and those who worked for it (DMR, 10/23/94). The no side was steadily developing a coherent argument, based on charges that the charter would create more officeholders and more bureaucracy, remove the people's right to vote for key officials, and undermine the popular sheriff.

On November 8, 1994, the charter was crushed at the polls, losing 65 percent to 35 percent. Despite a 20-1 financial edge, the pro-charter side could not make its case. Opponents agreed that reform was necessary, but indicated that voters should have the chance, not then available under Iowa law, to select which officers would be elected and which appointed. One mayor noted, “a whole lot of people support the sheriff, so they voted against it.” (DMR, 11/9/94). The head of the no campaign said he played “the Rice card” for all it was worth (DMR, 12/26/94).

After years of effort, the pro-charter forces in Polk County had managed to make a wide range of enemies, and very few friends. Well-funded and supported by the leading businesspeople, they attacked the government for its performance. But they found that making war on the government and its employees was likely to make serious reform impossible.

### **New Jersey: Bergen County Chooses the County Executive**

New Jersey, one of the most urbanized states in the nation, initiated the process of county charter reform in 1966, when the state appointed the Musto Commission. The commission recommended that counties be given the authority to organize themselves and select their system of government. The legislature approved the plan as the Optional County Charter Law in 1972.

There was an immediate burst of county charter reform. Nine counties took advantage of the law, and elected charter commissions to consider their form of government. New Jersey is unusual in its emphasis on elected charter reform commissions. In all but Essex County, the elected commissions chose to propose to the voters one of the more modern versions of county government. The first wave to the ballot box failed to establish a

beachhead; voters turned down reform charters in 1974 in Bergen, Camden, Middlesex, and Passaic.

The situation improved the next year. In the November 1975 election, voters in Atlantic, Hudson, and Mercer counties passed County Executive charters, and Union voters selected the county manager system. A plan to elect a charter commission was defeated in Burlington.

Essex County's commission voted to retain its existing system of government in 1974. However, a citizens' effort led by the League of Women Voters placed the minority report of the commission, which had called for a County Executive system, directly on the ballot in 1977. The voters approved it. (An account of the Essex County story is at [www.co.essex.nj.us/history4.htm](http://www.co.essex.nj.us/history4.htm)).

As seems typical of county reform, the initial burst of reform soon reached a stand still. For a full decade after 1975, no county undertook reform. Then, in 1986, Bergen County, the state's most populous county, tried to reverse its narrow failure of 1974. Voters elected a charter reform commission in November 1984, which set a course to create a county executive. The 11-member commission had 7 elected and 4 appointed members (two each by the leaders of the Democratic and Republican parties). The 1974 ballot measure had suffered from the opposition of both Democratic and Republican leaders, in a state where party lines are extremely important.

The climate was better than in 1974 because of the perceived success of the County Executive model in other New Jersey counties. In Essex County, 26-year-old County Executive Peter Shapiro became nationally famous for his efforts to revamp the county's budget. In 1985, Shapiro was on his way to winning the Democratic nomination for

governor. He came to speak to the Bergen County Commission to say how well the County Executive system had worked in Essex (The Record, 5/22/85). Shapiro emphasized his ability to cut both the county tax rate and the county work force by 25%. In other counties, executives were making real improvements in efficiency and responsiveness.

Unlike in Polk County, Iowa, the County Executive proposal in Bergen County had the full support of the popular county sheriff, William D. McDowell, also a former county freeholder (as county supervisors are called in New Jersey) and Republican party chairman. He became the first elected County Executive after the passage of the charter. He had been a strong supporter of the failed measure in 1974 (The Record, 1/30/85). While the county Democratic chairman initially opposed the county executive, other Democrats supported it, and the chairman later reversed his position to support it, then became neutral, and then opposed it again, but mildly (The Record, 3/27/85; 5/22/85).

The charter commission had a solid majority for the county executive, but split along party lines on whether freeholders should be elected by district or at large. Democrats and minority groups were against at-large elections, while Republicans favored them. The commission overrode Democratic objections and chose the at-large model. They also reduced the size of the board from 9 to 7, potentially limiting some opposition.

While several freeholders announced their opposition, they signaled that they would be not campaign energetically against the measure. The Democratic County Clerk joined the Republican Sheriff in backing the measure, which would have no impact on their offices. The clerk had opposed the measure in 1974. Both the Democratic and Republican Members of Congress were in support.

In 1974, the strong and unified opposition of mayors had hurt the reform effort. In 1985, mayors were split. Some mayors continued to fear that an elected executive would erode municipal home rule. Other mayors felt that the County Executive would bring greater efficiency (The Record, 10/21/85).

While the supporters of the charter could boast bipartisan leadership, opponents drew from disaffected Democrats and Republicans, some mayors, and a member of the charter commission (The Record, 10/23/85). Union members, particularly county employees, joined the opposition (The Record, 10/29/85).

Unlike the Polk County charter reformers, the Bergen County pro-side did not attack the government or its employees. It had far greater support from established political figures in both parties, and could not be characterized as a business cabal. It also had the benefit of the positive experience of County Executives in New Jersey. On Election Day, the charter passed decisively, by a 3-2 margin, winning in 68 out of the 70 communities in the county (The Record, 11/6/85). A year later, Sheriff McDowell was elected as Bergen County's first County Executive.

New Jersey stands as an example of a state in which counties not only adopted charters, but also pursued the County Executive model. The results in improved efficiency and in the visibility of counties led to further adoptions. In fact, in New Jersey county government, reform became the preferred model. Urban counties such as Passaic that refused to consider such reforms in the 1990's were widely derided for their refusal to adopt modern methods.

## IV. ANALYSIS

Many regard American county government as the backward level of government. Compared to city governments, which were at the forefront of the Progressive reform movement, counties have often seemed to operate in the shadows. Some modifications of this view of counties as America's governmental backwaters are overdue.

While counties lagged behind cities in governmental innovation, there have been significant efforts since World War II to improve and streamline county government. The percentage of states granting charter home rule to counties has grown dramatically and the proportion of eligible counties that have created charters have grown as well.

Measuring county charter efforts only by the number or percentage of counties undertaking charter reforms underestimates the impact of reform, because county reform usually centers on urbanized counties with large populations. For example, only 13 of California's 58 counties have charters today; yet these 13 counties include 64% of the state's population. In the state of Florida, less than a quarter of the counties have charters, but these counties include more than three-quarters of the population.

Since reform is most likely to occur in the most populous counties with the greatest service needs it is possible to concentrate on them and still reach a majority of the residents of the state. The target for reform efforts should not, therefore, be the number or proportion of counties reforming, but the number or proportion of residents who live in reformed counties.

County government has never grown up to the same degree as city government. In the 19<sup>th</sup> century, the parental role that state government played with local government applied both to county and city governments. Dillon's Rule oppressed county and city alike.

While the relationship changed dramatically for cities, counties have been much slower to enjoy the benefits of home rule. Even a century after Dillon's Rule eroded, state officials still tend to see county government as administrative units of the state government. It has been all too tempting for state governments to poach revenue sources from counties, to impose program mandates without corresponding sources of funding, and to specify how programs mandated by the state will be carried out.

County officials have become all too accustomed to following the lead of state government, or to complaining about their overbearing parents at the State Capitol. Unlike cities, whose leaders are imbued with the notion of home rule, counties are often tentative, and even timid about seeking governmental reform.

The difficulties experienced in California between state and county governments are representative of the nationwide experience. State officials want local service delivery to be efficient and accountable. County officials complain that they are hamstrung in the delivery of services by state mandates and raids on county revenue. State officials want counties to be better run. County officials say that they lack the resources and flexibility to run things the way they should be.

The potential for frustration between county and state may derive from the desire of officials at each level of government to make only minimum steps in the other's direction. Thus, the state may want to offer the minimum level of fiscal home rule, and the counties may choose to make the minimum organizational reforms. Adding to the difficulty is the unequal nature of the relationship. These and other obstacles help answer the question asked by Cowan and Salant (1999:ix):

If a county charter could cure what ails that ‘hydra-headed monster,’ that “dark continent of American politics,” that “old courthouse gang,” then why weren’t counties clamoring to adopt one?

In order to avoid another generation of disappointment in county reform, State and county officials should consider taking a fresh look at the situation. County government reorganization is a much harder task than city government reorganization. While the success of city charter reform can serve as a beacon for counties, the task of county reform is considerably tougher.

Realistic expectations for the extent of county reorganization and for its positive outcomes will help mightily to avoid further disappointment. Expecting county reorganization to make county government cheaper is likely to lead to even more mutual frustration. Greater efficiency and responsiveness in the delivery of services do not necessarily cut the overall budget. Rather, they provide a way to make certain that the services the people want are delivered in the best possible way. Research on the impact of county reorganization on overall budget policy does not show a reduction in the budget as an outcome (Morgan and Kickham, 1999). This is not unexpected, since the impetus for county reorganization is usually a growing public demand for county services. Nonetheless county reorganization can help reduce useless expenditures and thereby improve the overall delivery of services. State governments that want county governments to operate more efficiently may need to provide assistance and support in that effort.

The two most recent successful county charter reforms in California took place in Placer (1980) and El Dorado (1994) Counties. According to a study by Alvin Sokolow (2000), who provided technical advice to the elected commission in Placer and the appointed commission in El Dorado, these cases showed that reform could not only be empowering for

county government, but also restricting. While the Placer Charter created a full-scale County Administrative Officer and strengthened the government, the El Dorado Charter moved in the direction of greater citizen control over county revenue decisions, thereby limiting the flexibility of the government.

The El Dorado case is reminiscent of the case study of Allegheny County, Pennsylvania, in which popular support for the new charter was won in part by increasing the public's ability to block county taxes (see above). Sokolow concluded that in light of the increasing flexibility of general law counties over recent decades, the charter reforms in the two counties had more symbolic than practical impact on governance.

Based on the experience of other states, county officials are less likely than city officials to initiate major charter reforms after the initial burst of enthusiasm. When state governments grant home rule to counties, there is often a burst of energy at the county level. In California, the 1911 constitutional amendment that created the first county home rule immediately led two major counties, Los Angeles and San Bernardino, to launch successful and pioneering charter efforts. In New Jersey, the passage of home rule in 1972 led to a surge of activity among the biggest urban counties. In Florida, a 1968 change to the state constitution led to a number of charter reforms by counties.

In other words, when the state changes the rules of the game to the benefit of counties, there may well be a burst of creative activity from county officials leading to enduring reforms. It is the state government that takes the first step. While it has been noted that county governments often do not use all the power they already possess, it is still the state government that holds the greater share of power, and can best attract everyone's attention with a bold proposal.

## Charter Reform is Local

It is not feasible for the State of California to chart the direction of county reform. It can prod, it can encourage, it can frighten, and it can provide incentives. But ultimately, the decision in these matters requires the development of a constituency within the boundaries of each county that will adopt reform. If states take a chance on counties, it will be up to counties to step up to the challenge.

As David Berman and Katheryn Lehman (1993: xiv) noted, “Mere grants of authority and other resources may not amount to much. Many counties have not taken advantage of state laws that allow them to frame and adopt their own charters. County officials, moreover, sometimes appear reluctant to exercise what powers they have.”

Many county officials consider things to be just fine the way they are. There is no incentive to reform, and perhaps no need of it. Officials in these counties might be shocked and stunned by a state mandate to undertake governance reforms.

Certainly some of the greatest obstacles to reform can be found within the counties themselves. Even after states take bold initiatives to encourage reform, the initial burst of activity tends to subside. Forces within the county political environment – whether row officers, or government employee unions, or county supervisors – fall back into the lethargic acceptance of a comfortable *status quo* that is the mortal enemy of reform. It becomes difficult to propose reforms in the face of such resistance, whether active or passive. In Florida, county reformers simply gave up in the face of the opposition of county sheriffs who routinely and effectively opposed each and every reform, whether or not aimed at their own office.

Over time, the benefits originally offered by the state action, such as home rule to make structural changes, become less beneficial compared to those enjoyed by non-charter counties. The ability to change elected to appointed offices was a great boon to counties in 1911, but it is hardly at the top of the list of county priorities today.

County officials are now generally more concerned about fiscal issues than about the structural aspects of home rule. In western states in particular, there is a mismatch between the traditional home rule being offered by states, which is oriented toward reform of governing structures, than toward more contemporary home rule, with its connection to fiscal self-determination. Western county officials are more likely than their counterparts in other parts of the country to complain about their lack of fiscal and program flexibility (Streib and Waugh, 1991).

Matt Newman, director of the Institute for County Government (interview), noted that “counties would probably like to reduce the number of special districts in order to gain more discretion over funds.” Certainly special districts would fight hard against reorganizations, and the question is whether voters would be swayed by the argument that if the county were to have greater discretion, there would be greater power to the voters as well. Voter discretion over revenue represents a carrot for the voters, but it also represents another limitation on county discretion.

States in the east and the south are more likely than in the west to adopt the elected County Executive model. Of the 57 counties that are not consolidated with a city in California (excluding, that is, San Francisco) not one has an elected county executive. In Allegheny County, Pennsylvania, the creation of an elected executive helped increase the clout of the county in the State Capitol. Elected county executives were the keys to

successful county government in New Jersey, where the example of a successful Essex County Executive inspired other counties to adopt the same form.

A reason to consider County Executives is the role they play in government reform. Mayors tend to be the main advocates and leaders in city charter reform efforts. They raise the money, build public support, and frame the issue of government reinvention. It is not surprising that of all of California's 58 counties, the most active and innovative in charter reform has been San Francisco, with a combined city-county government and active and well-known mayors. The Los Angeles City Charter reform was initiated and supported by Mayor Richard Riordan. An elected County Executive can become the best-known reformer in the county, and can counterbalance the often-resistant stance of other elected officials.

## V. RECOMMENDATIONS

What incentives can be provided to county officials to set off a new burst of energy in governmental efficiency, responsiveness and reorganization? California's counties already have the option of charter home rule, which has been taken by 13 counties. Unquestionably, a new state initiative would have to address the main current complaints from county officials: state mandates with insufficient revenue attached, the pre-emption of county revenue sources by the state; and detailed state regulations on the implementation of mandated programs.

If home rule for structural governance was the first step, fiscal and program home rule are the keys to the next stage. If the state government wants the counties to act like adults, the state is going to have to treat the counties like adults.

The California Legislature has been very reluctant to grant such home rule powers to counties. In Florida, a proposal similar to that by the California Constitutional Revision Commission met the same fate: defeat in the Legislature. It would be possible to design such a program of fiscal and program home rule with numerous safeguards to avoid valid questions raised by the Senate Local Government Committee. Such home rule should be reserved for counties that have completed the process of governmental review and revision, including a vote of the people.

Based on this research, the State of California would be well advised to initiate a new generation of county home rule in a manner similar to that adopted in 1911. The proposal presented here calls for the State to offer *advanced home rule, with fiscal and program flexibility* to those counties willing to undertake and complete the charter process originally set forth by the Constitution Revision Commission.

Advanced home rule should have two dimensions: fiscal and program. The State should offer to those counties who successfully complete the program greater revenue flexibility, particularly in the local allocation of property or sales taxes. County governments could also benefit from greater flexibility in program administration, based on an agreement on the criteria for program outcomes. Cliff Allenby, an experienced California state official, noted that, “It’s hard to design a deal with both wins and losses for the state and the counties. Power is key; not only money. Dividing responsibilities may be the only way, with the state setting the criteria for provision of services” (Allenby interview).

As long as the county meets State goals and objectives, it should be possible to establish a formal contract process through which the counties can design and implement their own ways to get there. Fred Silva, of the Public Policy Institute of California, cited Article 11, Section 4(d) of the State Constitution, that charters “shall provide for...the performance of functions required by statute.” Silva suggested that this section could be interpreted to allow counties much greater flexibility in program administration than they currently have (Silva interview).

This proposal differs from the CRC proposal and from AB 2368. Both were mandatory on the counties affected. The CRC proposal mandated the charter review process for all counties, and AB 2368 only for Los Angeles County. As described above, this proposal is for voluntary action by counties, with the expectation that only a small number will act.

*Ultimately, if the process of governmental reorganization is to be taken seriously at the local level, it must be based on a local decision to pursue this activity.*

Those counties that choose to reform should qualify for the advanced home rule, in the way that those counties that pursued charters in the first place were given home rule in 1911. There is no guarantee that some counties will undertake the process.

If the State is concerned that counties with large populations and major service delivery issues will not undertake the process even if offered advanced home rule, there are avenues to increase the odds of adoption. To the extent that the State of California has a strong interest in reorganizing the delivery of services within counties, the State has the power to pursue that activity on its own. The State government can establish a commission on local government organization, and thereby offer a situation that would be unpopular with county governments, and provide an incentive to do it right themselves. The State has already promoted several commissions on local government, and should continue to maintain the pressure of framing issues and solutions.

In taking such a step, the State will find itself pressured by county row officers fearing that reform will make their offices appointed, by special districts, by organized labor, and by others. However, if the State cannot find a way to work with and around potential opponents to advance reform, it will be even more difficult for counties to do so.

While it is hardly advisable for the State of California to make decisions for counties and the communities within them, the active interest of the State in achieving reorganization will place pressure on counties to take the lead in the process. In that sense, the State is setting a broad goal but is drawing counties into the process of meeting those goals.

## Winning

No program of charter revision can succeed without an effective political strategy. Most county charter reform efforts fail. Charter reform, especially at the county level, has natural enemies. If the only people campaigning for reform are the League of Women Voters and other good government groups, the prospects for passage are dim. Opposition may surface late, and with devastating effect. The State can play a role in identifying the collective wisdom gained by the wins and losses of county reform efforts.

The state and the county are not the only stakeholders in this reform process. The voters have the last word. Charter reforms and constitutional amendments, the two vehicles for most structural reform, require a vote of the people. In order to accomplish any significant governmental reform, the interests of the voters must be analyzed and accommodated. The record of county charter reform on this front is not promising. In the 1990's, most new county charters failed to win at the polls (Cowan and Salant, 1999).

State officials, county officials, and the voters may have different, if overlapping priorities. The path of county charter reform means finding ways to motivate state officials to release the reins a bit on county government; motivating county officials to utilize the power they already have and whatever new powers may be promised to initiate and pursue organizational reform; and developing a product that will win a majority of the votes on election day.

There are several elements in a winning charter campaign: 1) a local constituency for reform with the motivation and interest to push for change, 2) a set of proposals that engage the public, 3) a process that allows a commission to be formed that will develop credibility with the public, 4) substantial opportunity for public access to the work of the commission,

and also access and input from institutions that would be affected by the proposed changes, and 5) a method of bringing commission recommendations to the public without substantial reworking by institutions that would be affected by the change. All of these factors were in place during the Los Angeles Charter reform process, and helped to account for its success.

The citizens' commission, whether appointed or elected, is one of the great American inventions. In a system of separated powers at the national level, and division of powers among federal, state and other governments, the commission has emerged as a vehicle to break gridlock and propose and implement reforms that the existing political system might not be able to deliver.

Whether elected or appointed commissions are better has not been determined by this research. In Allegheny County, Pennsylvania, elected commissions created unpalatable proposals, and it was only the adoption of an appointed commission that led to success. In New Jersey, elected commissions largely accomplished county reform. In other states, appointed commissions have predominated.

Other than the City of Los Angeles, there is no record of a reform effort being conducted *simultaneously* by an appointed and an elected commission. After two years of competition, the two Los Angeles commissions came together to create a unified charter, and campaigned together for its passage. The Charter won in 1999 with 60% of the vote. The advantage of two commissions derived from the ability of the appointed commission to undertake a deliberative process creating a responsible charter and the elected commission's authority to place the measure directly on the ballot. The dual-commission format, which developed because of the mutual hostility of the Mayor and the City Council, is a high-risk approach that is just as likely to lead to defeat as victory.

Those who hold elected or appointed offices in the existing system are the most obvious constituency against reform. Whatever imperfections the current arrangement holds, it is the system that has allowed these men and women to hold the offices they do. There is no guarantee that the next system will be better for them. In some cases, such as special districts, it is not just individuals but an entire body of officials who stand in opposition.

The opposition of row officers can be devastating. The worst case is often the opposition of an elected county sheriff. The Polk County defeat was due in no small part to the opposition of Sheriff Rice, a local folk hero whose position would have become appointive under the new charter. It was a great asset to the Bergen County, New Jersey reform effort that the County Sheriff had every intention of running for the new position of County Executive.

Tanis Salant (1993: p. 118) has suggested that the long-standing Progressive opposition to elected row officers may not only be politically deadly, but misplaced as a method of reform. Such countywide elected officials as sheriffs and attorneys are valued by their community, and may carry more weight with the State Legislature than the County Supervisors.

A similar logic tends to bring government employee unions into opposition to many charter reforms. The existing arrangement is usually one that unions have made predictable. Unions negotiate collective bargaining agreements under a set of circumstances that could be altered to their detriment by charter reform. The Polk County, Iowa charter reform failed when the charter advocates framed their campaign around an anti-government theme, outraging county employees. This anti-employee campaign reflected the business domination of the charter campaign, and the narrowness of the pro-side's base.

It is critical that charter reformers, especially those backed by business and favoring County Executive models, consider the interests and concerns of employee organizations from the very beginning. Anti-government rhetoric may win short-term support, but generates furious labor opposition, and may even make voters wonder if the government is capable of carrying out reforms.

In the Los Angeles City Charter reform, both the appointed and elected charter reform Commissions met with labor representatives in a weeks-long meet-and-confer process, to make certain that all legitimate needs and interests of labor were met. As a favor to the City Council, city employee unions opposed the charter in the end, but did so without much enthusiasm, noting that their interests were protected in either case. Despite their concerns, city employees found that the new charter was not nearly the danger to their well being they had originally feared.

The business community provides an important counterweight to the expected opposition to county charter reform. Businesses often provide energetic support for governmental reform, and can help generate the campaign funds required. Business leaders often have the ear of the chief executive, who is often the spearhead of reform. In California, the governor may be a critical factor in the likelihood of the State moving boldly on county reorganization. The governor's need to be sensitive to the business environment in the State, especially in high tech areas, represents a potential source of political leadership (Abel interview).

On the other hand, business brings some political liabilities to the table. While the business sector has long favored the reform of government, its representatives do not always have a full understanding of how government works. The best charter reform builds on a

detailed knowledge of the workings of government, if only to avoid touching something in an existing charter that represents a “third rail” mobilizing angry opposition.

The greatest resource for winning charter reform elections is the endorsement of well known and popular elected and appointed officials. The lack of elected County Executives handicaps California counties in this regard. However, if well-regarded county supervisors favor reform and campaign strongly for it, and the charter wins support from elected sheriffs and other row officers, and such appointed officials as may be free to campaign, the chances of success are high.

## VI. CONCLUSIONS

Despite the obstacles to moving to a next generation of county charter reform in California, the timing may be better now than in the recent past. Governmental reform is generally a result of persistent effort in the face of often demoralizing defeat. It can be decades between the initiation of a reform idea and its implementation. The original wave of county home rule was a long time coming.

Defeat can be a hard but necessary teacher. Many charter reforms fail because of errors such as failing to follow a process that will build public credibility or needlessly alienating key groups. Some one has to make errors so that others can learn from them.

The imposition of term limits at the state level and in some cities may radically transform the interest in county charter reform (Newman interview). As long as elected officials can plan a long career in one level of government, the likelihood that they will identify closely with their own office is greater than if they visualize the opportunity and indeed the necessity to consider other offices.

The impact of term limits can work upward and downward. Today's big city council member may consider running for county supervisor, just as a state legislator may seek the same office. In each case, the future supervisor would be leaving a level of government where home rule and discretionary authority are taken for granted. As a county supervisor, this elected official may be frustrated by the limits of county home rule, and seek to expand it.

The dynamic of caution among county supervisors could change if term limits were to extend to county offices. Such a proposal is being widely discussed in Los Angeles

County as a potential ballot measure. The supervisor who dislikes the idea of an elected County Executive may change his or her mind if it is necessary to vacate one office and seek the other. With or without term limits at the county level, the supervisors are likely to feel pressure from above and from below as competitors challenge the supervisors to point to concrete governing achievements as they run for re-election.

In other words, the moving conveyor belt of ambition in California politics may sweep into the county level of government, and change the dynamic both of the state's relationship to the county and the county's conception of itself.

Finally, as the governing scope of the State of California becomes ever larger, there may be greater interest at the State level in maximizing the leadership potential of county government. With an annual budget greater than \$80 billion, the State is going to need the cooperation and effective efforts of local government to deliver services.

Increased awareness of regional issues heightens the potential role of the county as an underutilized level of government smaller than the state but bigger than the city. As the electricity crisis indicates, the challenges facing California government are so immense, that it may be more appealing to give up some power in order to have more hands at the wheel.

## **LIST OF INTERVIEWEES**

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