

El Dorado County Board of Supervisors Final Response

Grand Jury Report 06-019-El Dorado County Charter Amendment

Reason for the Report

The Grand Jury observed, through media sources and communications with El Dorado County personnel, the difficulties in determining when a Board of Supervisor's vacancy occurs and the inefficiencies encountered in filling a vacancy. The Grand Jury believes that the El Dorado County Charter needs to be amended to impose an additional standard that supplements California Government Code, Title I, Division 4, Chapter 4, Article 2, Section 1770 (g) that defines when a Board of Supervisor's vacancy exists. In addition, the Grand Jury recommends that the El Dorado County Charter be amended to incorporate a more efficient and expedient replacement of a Supervisor when the vacancy occurs during the last year of a term.

Scope of Investigation

Members of the 2006-2007 Grand Jury met with several El Dorado County employees and members of the Board of Supervisors.

People Interviewed:

- El Dorado County Chief Administrative Officer
- Assistant Registrar, El Dorado County Registrar of Voters
- Systems coordinator, El Dorado County Registrar of Voters
- Supervisor District I, El Dorado County
- Supervisor District II, El Dorado County
- Supervisor District III, El Dorado County
- Supervisor District V, El Dorado County
- El Dorado County Counsel

Documents Reviewed:

- California Charter Counties (Appendix I)
 - Alameda
 - Butte
 - El Dorado
 - Fresno
 - Los Angeles
 - Orange
 - Placer
 - Sacramento
 - San Bernardino
 - San Diego
 - San Francisco

San Mateo
Santa Clara

- California Government Code (Appendix II) Title I, Division 4, Chapter 4, Article 2, Section 1770

Background

The current El Dorado County Charter, ratified 8 November 1994 and amended 4 November 2004 specifies:

Section 203. Filling of Vacancies.

Whenever a vacancy occurs in the office of supervisor, the unexpired term shall be filled by election. If the vacancy occurs more than 90 days but less than 120 days before a scheduled primary, general, or special election involving the district in which the vacancy has occurred, then the election to fill the vacancy shall be consolidated with the scheduled elections. If the vacancy occurs more than 120 or less than 90 days before a scheduled primary, general, or special election involving the district in which the vacancy has occurred, then the vacancy shall be filled at a special election called by the Board of supervisors to take place not less than 90 nor more than 120 days after the vacancy occurs. The special elections shall be conducted in accord with the provisions of general state law regarding special elections. The candidate with the highest number of votes shall be elected to fill the unexpired term.

[Amended by Charter Amendment ratified November 4, 2004, effective December 14, 2004, Stats.2004, ch. 16]

Facts:

1. Vacancies on the Board of Supervisors / Pre-Charter (prior to 27 December 1994):
 - 1988-89 Resignation, replaced by Governor Appointment.
 - May 1990 Resignation, replaced by Special Election
2. Vacancies on the Board of Supervisors / Post-Charter (effective 27 December 1994):
 - April 2003 Death in Office, replaced in Special Election.
 - July 2005 Resignation, replaced in Special election.
 - July 2006 Vacated involuntarily {California Government Code, Section1770(g)}
3. Cost of Special Election
 - The El Dorado County total cost for the July 2003 Special Election was \$43,068.28.
4. The Election Process
 - The California Election Code Book is followed with the steps in a special election as follows:
 - a. The Board of Supervisors calls a special election, by passing a resolution and sending it to the Elections Department.

- b. The Elections Department publishes that a position is open and the filing period which usually is 118 days to 88 days before the election.

5. A special Charter Commission can be convened at anytime by the Board of Supervisors.

Findings/Recommendations:

1F. Finding: In the current El Dorado County charter, Section 203, the word ‘vacancy’ is defined by the California Government Code. The Office of Supervisor becomes vacant because of death, resignation, recall, permanent disability or the inability of the respective officer to otherwise carry out the duties of the office. A supervisor’s failure to discharge duties represents a fiduciary breach to the citizens of El Dorado County. Recently, a Supervisor ceased to discharge the duties of office, making the office involuntarily vacant after three consecutive months under California Government Code, Section 1770 (g). The El Dorado County Charter does not include an additional standard for a shorter time limitation on the failure to discharge duties in office.

Response to Finding 1F: The respondent agrees with the finding.

1R. Recommendation: Amend Section 203 of the El Dorado County Charter to include its own criteria, which goes beyond California Government Code, Section 1770 (g), in defining standards on when a vacancy occurs for failure to discharge duties of the office.

Response to Recommendation 1R: The recommendation requires further analysis.

Amendments to the County Charter can only be amended by a majority vote of the electors voting in a countywide general or special election. The next countywide election is anticipated to be held in June of 2008. Charter amendments may be placed on a ballot by the Board of Supervisors or by petition signed by at least 10% of the electors who voted in the last gubernatorial election. In order to ensure a thorough analysis and to provide for public participation in the entire process, the Board of Supervisors will convene a Charter Review Committee to study this recommendation and if appropriate, provide the Board with proposed Charter amendments for placement on the June, 2008 ballot. The Chief Administrative Officer will return to the Board with information regarding the filing deadline to place measures on the June, 2008 ballot and recommendations on the budget and composition of the Charter Review Committee within three months of the Board’s adoption of a final response to this Grand Jury report.

2F. Finding: In the current El Dorado County Charter Section 203, the process for filling a vacancy at any time within the supervisor’s term requires a special election, unless occurring within a window of 120 days to 90 days of a scheduled election. This requirement is inefficient for a vacancy which occurs in the last year of a supervisor’s term. This inefficiency imposes cost due to required multiple elections within a year’s period. This requirement also creates an associated inefficiency in the political process by confronting potential special election candidates to make a trade off of campaign cost versus a few months in office for the effort.

Response to Finding 2F: The respondent agrees with the finding.

2R. Recommendation: Amend Section 203 of El Dorado County Charter to provide a different method, rather than a special election, by which a supervisor vacancy can be filled within the last year of a supervisor's term.

Response to Recommendation 2R: **The recommendation requires further analysis.** Amendments to the County Charter can only be amended by a majority vote of the electors voting in a countywide general or special election. The next countywide election is anticipated to be held in June of 2008. Charter amendments may be placed on a ballot by the Board of Supervisors or by petition signed by at least 10% of the electors who voted in the last gubernatorial election. In order to ensure a thorough analysis and to provide for public participation in the entire process, the Board of Supervisors will convene a Charter Review Committee to study this recommendation and if appropriate, provide the Board with proposed Charter amendments for placement on the June, 2008 ballot. The Chief Administrative Officer will return to the Board with information regarding the filing deadline to place measures on the June, 2008 ballot and recommendations on the budget and composition of the Charter Review Committee within three months of the Board's adoption of a final response to this Grand Jury report.