

**MEMORANDUM  
OFFICE OF THE  
COUNTY COUNSEL  
COUNTY OF PLACER**

**TO:** Board of Supervisors  
**FROM:** Anthony J. La Bouff, Placer County Counsel  
**DATE:** May 27, 2008  
**SUBJECT:** Potential Charter Amendments

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**Items Presented:**

The County Counsel's Office submits the following items for the Board's consideration and possible action, as recommended by the 2007-2008 Charter Review Committee:

1. Consider (a) whether the Board wishes to place an adjustment of the salaries of the members of the Board of Supervisors (Board) before the voters of the County, and if so, (b) the level of compensation.
2. Consider an Ordinance placing a ballot measure on the November 2008 ballot to amend the terms of employment of the County Counsel set forth in Section 507 of the Charter.
3. Direct the County Counsel to make minor grammatical corrections to the Charter.

**Background**

On February 20, 2007, the Board convened the 2007-2008 Charter Review Committee (CRC). The CRC met on several occasions during 2007, and on January 8, 2008, provided its Final Report to the Board. This report recommended that action be taken to amend the Charter. The following recommendations were made to the Board:

- 1) Compensation of the Board of Supervisors - The CRC found that the current compensation paid to the members of the Board of Supervisors is inadequate, and recommended an increase in compensation. This would require that the Board pass an Ordinance (required by Government Code Section 23730) to place a ballot measure before the voters to amend Section 207 of the Charter. After considering the CRC's Final Report on January 8, 2008, the Board directed County staff and the CRC to conduct additional analysis. On March 11, 2008, the Board received this additional information and directed this office to prepare alternative draft ballot measures for the Board's consideration for consideration at this meeting.
- 2) Terms of Employment of the County Counsel - The CRC recommended that the manner in which the County Counsel is appointed and retained be amended. This would require that the Board pass an Ordinance (required by Government Code Section 23730) to place a ballot measure before the voters to amend Section 507 of the Charter. The Board has not taken any action relative to this item to date.
- 3) Minor Corrections to the Charter - The CRC recommended that the Board direct the County Counsel to make minor grammatical corrections to the Charter, as allowed by Section 609 of the Charter. The Board has not taken any action relative to this item to date.

## Discussion

### 1. Compensation of the Board of Supervisors

As stated above, on March 11, 2008, the Board directed this office to provide draft ballot measures for your consideration at this meeting. These draft measures are attached; however, prior to bringing a measure to the Board for final action, the Board must answer the following:

**A. Does the Board wish to place a ballot measure before the County voters in November to amend the County Charter to raise the pay of the Board?**

If a majority of the Board does not wish to place a ballot measure before the voters, no further action would be needed relative to this item.

**B. If the Board wishes to place a ballot measure on the November ballot, how will the level of compensation be set?**

The CRC and staff provided the Board with various options regarding compensation, which generally fall into two categories. Compensation might be set as (1) a fixed amount, or (2) based on a formula.

**C. If the Board wishes to use a fixed amount, what should that amount be?**

**D. If the Board wishes to use a formula, what should that formula be?**

Several formulas have been discussed by the CRC and staff as follows:

- (1) CRC/County "Market Survey" Method – This method would set compensation at a level equal to the average base salary of the members of the Board of Supervisors of eight Counties (Contra Costa, El Dorado, Sacramento, San Luis Obispo, Santa Clara, Santa Cruz, Solano, and Sonoma), and is the formula used by the County to negotiate salaries for most County positions.
- (2) Nader Method – This method was arrived at by Mr. Wayne Nader, the Chair of the CRC, and uses the average base salary of the members of the Board of Supervisors of five Counties (Monterey, San Luis Obispo, Santa Barbara, Solano, and Tulare).
- (3) Prop F Method – This method is patterned after Measure F, which sets the salaries for Placer County Sheriff's Deputies (El Dorado, Nevada, and Sacramento Counties).
- (4) Average of All Counties – This method would use the average salary of the Board of Supervisors for all Counties in California.

**E. If the Board wishes to place a salary increase on the ballot, should that increase include annual adjustments?**

The Board may wish to offer a fixed salary, as is the current situation. If the Board wishes to include future annual increases in the ballot measure, there are two basic methodologies that could be used. First, if a county average method is used, the average salaries of the Board members of those Counties could be re-calculated on an annual basis. A date should be selected for this annual evaluation. Second, for either approach (i.e., the fixed amount or the averages), future increases could be set using the U.S. Department of Labor Consumer Price Index for all Urban Consumers for the previous year.

**F. If the Board wishes to place a ballot measure before the County voters in November, should that ballot measure include benefits?**

For clarity and simplicity, if there is a desire to provide benefits, this Office suggests that health and dental benefits be provided at a level provided to County Managers. The draft ordinance attached hereto has been written with this Office's suggestion that the Board would elect to provide the above benefits.

Exhibit 1 is a draft ordinance that could be used to place a ballot measure on the November 2008 ballot. Included with the draft ordinance are two different ballot proposals; depending on the Board's direction as to the issues above, one of these drafts would be used. The first ballot measure (Exhibit 1-A) would be used in the event a fixed amount of compensation would be set by the board. The second ballot measure (Exhibit 1-B) would be used if the Board uses a formula to set compensation.

**2. County Counsel – Terms of Employment**

The CRC's final report contained a recommendation to amend Section 507 of the Charter to modify the terms of the County Counsel's employment to be consistent with Section 27641 of the Government Code. Any amendment to this section of the Charter would require a public vote, and the Board would have to act to place the ballot measure before the voters.

As a brief reminder, Section 507 of the Charter sets forth the method of appointment of the County Counsel, and reads, in relevant part, that the "County Counsel shall be appointed by the Board of Supervisors and serve at its pleasure."

Government Code Section 27641 provides that a county counsel shall serve for a four-year term, and contains a detailed procedure for removal of a County Counsel from office. The reasons for removal must be "due to neglect of duty, malfeasance or misconduct in office, or other good cause shown" and can only occur "upon written accusation to be filed with the board of supervisors, by a person not a member of the board, and heard by the board and sustained by a three-fifths vote of the board."

The amendment suggested by the CRC would change the County Counsel's appointment from at-will to the four-year term consistent with Government Code Section 27641. That term would be renewable or terminable at the Board's pleasure, but the statutory procedure would need to be followed in order for the Board to remove the County Counsel during the four-year term.

The CRC believed that this amendment to the Charter would be beneficial to the County, since the detailed removal process set forth in the Government Code, would better isolate a future County Counsel from political considerations. It should be noted that the CRC, in its Final Report, stated that this recommended amendment was intended to be prospective in nature, and was in no way reflective of the actions of the current County Counsel or Board of Supervisors. Finally, it should be noted that, as a Charter County, there is no legal requirement that this amendment be made, and the current method by which the County Counsel is appointed and retained is legal.

In the event the Board elects to adopt the CRC's recommendation, a draft ordinance is attached for your consideration (Exhibit 2). As a matter of priority and convenience, this Office suggests that the Board consider placing this measure before the voters only if the Board acts to place the matter of its compensation before the voters.

**3. Minor Grammatical Amendments to the Charter**

Finally, the CRC recommended that two minor typographical/grammatical errors in the Charter be corrected as follows:

- a. Section 303. This section currently reads, in relevant part, "The Board may ... (d) examine all records and accounts, and inquire into the conduct of any office, commission department or other entity to which the county contributes funds." The CRC recommends placing a comma between "commission" and "department" for clarity.
- b. The second minor amendment is found in footnote 1 of Section 207 of the Charter. This section reads, in relevant part, "... in the case of Ferreira v. Williams, Placer County Superior Court Case No. SCV-00553, the count ruled that ..." The CRC recommends the word "count" be corrected to "court".

The minor corrections above would not change the legal meaning or intent of the Charter, and no ballot measure would be required. This Office requests that it be directed by the BOS to make these needed corrections and notify the Clerk of the Board for her Records.

**4. Timing of Any Ballot Measure**

This office has been informed by the Elections Division that a ballot measure that is intended to be placed on the ballot of the November 4, 2008 general election needs to be submitted to their office by July 2, 2008. There are two scheduled meetings of the Board (June 10 and June 24, 2008) for the Board to act on a finalized ballot measure and meet the July 2, 2008 deadline for placement of any measure on the ballot.

**Actions Requested:**

- 1. That the Board consider placement of two ballot measures to amend the County Charter, one relating to Board member salaries and one regarding the appointment and removal of the County Counsel.
- 2. If the Board decides to place one or more ballot measures before the voters of the County, that the Board provide clear and final direction as to the content of those measures, and direct this Office to return with final versions for approval.
- 3. That the Board direct County Counsel to make minor corrections to the text of the County Charter and notify the Clerk of the Board for her Records.

**Attachments:**

- Exhibit 1: Draft Ordinance to Amend Section 207 of the Charter (Salary Increase)
- Exhibit 2: Draft Ordinance to Amend Section 507 of the Charter (County Counsel)

# Before the Board of Supervisors County of Placer, State of California

In the matter of: An Ordinance Proposing  
Amendment of Article II, Section 207 of the  
Placer County Charter - Compensation

Ord. No: \_\_\_\_\_

First Reading: \_\_\_\_\_

The following Ordinance was duly passed by the Board of Supervisors of the County of  
Placer at a regular meeting held \_\_\_\_\_ by the following vote on  
roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

\_\_\_\_\_  
CHAIRMAN, BOARD OF SUPERVISORS

Attest:  
Clerk of said Board

\_\_\_\_\_

\_\_\_\_\_

**Exhibit 1**

WHEREAS, the Placer County Charter, Section 207 was amended by the voters of Placer County in 1992 to cap compensation for Supervisors in a maximum amount of \$30,000.00 per annum; and

WHEREAS, on December 29, 1993, the Superior Court of Placer County in the Case of Ferreira vs. Williams, Placer County Superior Court Case Number: SCV-00553 ruled that the mandatory employer contributions for social security, workers' compensation, unemployment insurance, PERS, and reimbursement for actual expenses cannot be included in this compensation cap; and

WHEREAS, since 1992 there has been no modification of the compensation cap adopted by the voters in 1992; and

WHEREAS, the 2007-2008 Placer County Charter Review Committee has determined that the amount of time required to perform the duties of a Supervisor of the Board in Placer County is at least equivalent to a full-time position; and

WHEREAS, the 2007-2008 Placer County Charter Review Committee has recommended that a Charter amendment be proposed to change the method by which the salary of the members of the Board of Supervisors is determined; and

WHEREAS, the Board of Supervisors is authorized to propose by ordinance amendments to the County Charter to the electorate, and in such a case the Board shall also order the holding of an election not less than 88 days from adoption of such ordinance;

NOW THEREFORE, The Board of Supervisors of the County of Placer does hereby ordain that a Charter Amendment be proposed to the voters for their consideration and orders that the attached Exhibit "A" ballot title and language be placed before the voters of this County at the general election to be held on November 4, 2008; and that this ordinance be forwarded forthwith to the Election Officer for his action.

EXHIBIT "1-A" – "FIXED" SALARY EXAMPLE

PROPOSED COUNTY CHARTER AMENDMENT, MEASURE " "

TO AMEND SECTION 207 OF THE COUNTY CHARTER

BALLOT TITLE: COMPENSATION OF BOARD OF SUPERVISORS –  
MAXIMUM COMPENSATION

BALLOT LANGUAGE:

Shall Article II, Section 207 of the Placer County Charter be amended to adjust the current \$30,000.00 compensation cap put in place by the voters of Placer County in 1992, to a maximum of **[INSERT DOLLAR FIGURE]** plus medical and dental benefits, effective January 1, 2009, **[with such amount adjusted each January 1 thereafter in accordance with the U.S. Department of Labor Consumer Price Index]**?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**Ballot Title - Compensation of Board of Supervisors - Compensation Cap**

**Proposed Amendment**

ARTICLE II: BOARD OF SUPERVISORS (Continued)

Sec. 207      Compensation. Members of the Board of Supervisors shall receive compensation as established by ordinance from time to time. Until the effective date of the first such ordinance subsequent to the effective date of the Charter, members of the Board of Supervisors shall continue to receive the same compensation as now provided for by law.

Each member of the Board of Supervisors shall receive compensation in the maximum amount of \$30,000.00 **[INSERT DOLLAR FIGURE]** per annum, **plus medical and dental benefits consistent with such benefits provided to County Department Heads, effective January 1, 2009,** which amount shall include the actual cost to the county of all benefits of whatever kind or nature, including but not limited to salary, per diem compensation, allowances, expense reimbursement, credit cards, health insurance, life insurance, leave, and retirement, **unless otherwise provided herein, and in accordance with the ruling in the case of Ferreira vs. Williams, Placer County Superior Court Case Number SCV-00553.**

**[Effective January 1, 2010, and annually each January 1 thereafter, the maximum compensation as limited by this provision shall be adjusted to**

**reflect the increase in the U.S. Department of Labor Consumer Price Index for all Urban Consumers for the previous year.]**

EXHIBIT "1-B" – COUNTY AVERAGE EXAMPLE

PROPOSED COUNTY CHARTER AMENDMENT, MEASURE “ ”

TO AMEND SECTION 207 OF THE COUNTY CHARTER

BALLOT TITLE: COMPENSATION OF BOARD OF SUPERVISORS –  
METHOD OF CALCULATION

BALLOT LANGUAGE:

Shall Article II, Section 207 of the Placer County Charter be amended to adjust the current maximum \$30,000.00 compensation cap to a salary equal to the average base salaries of [INSERT GROUP OR METHOD], plus medical and dental benefits, effective January 1, 2009 [with such amount adjusted each January 1 thereafter in accordance with the U.S. Department of Labor Consumer Price Index]?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

Ballot Title - Compensation of Board of Supervisors - Compensation Cap

Proposed Amendment

ARTICLE II: BOARD OF SUPERVISORS (Continued)

Sec. 207      Compensation. Members of the Board of Supervisors shall receive compensation as established by ordinance from time to time. Until the effective date of the first such ordinance subsequent to the effective date of the Charter, members of the Board of Supervisors shall continue to receive the same compensation as now provided for by law.

Each member of the Board of Supervisors shall receive compensation in the maximum amount equivalent to the current average base salary of [INSERT GROUP OR METHOD] of \$30,000.00-per annum, plus medical and dental benefits consistent with such benefits provided to County Department Heads, effective January 1, 2009; which amount shall include the actual cost to the county of all benefits of whatever kind or nature, including but not limited to salary, per diem compensation, allowances, expense reimbursement, credit cards, ~~health insurance~~, life insurance, leave, and retirement, unless otherwise provided herein, and in accordance with the ruling in the case of Ferreira vs. Williams, Placer County Superior Court Case Number SCV-00553.

**[Effective January 1, 2010, and annually each January 1 thereafter, the maximum compensation as limited by this provision shall be adjusted to reflect the increase in the U.S. Department of Labor Consumer Price Index for all Urban Consumers for the previous year.]**

# Before the Board of Supervisors County of Placer, State of California

In the matter of: An Ordinance Proposing  
Amendment of Article II, Section 507 of the  
Placer County Charter – County Counsel

Ord. No: \_\_\_\_\_

First Reading: \_\_\_\_\_

The following Ordinance was duly passed by the Board of Supervisors of the County of  
Placer at a regular meeting held \_\_\_\_\_ by the following vote on  
roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

\_\_\_\_\_  
CHAIRMAN, BOARD OF SUPERVISORS

Attest:  
Clerk of said Board

\_\_\_\_\_

\_\_\_\_\_

**Exhibit 2**

WHEREAS, the current County Charter, Section 507 provides that the County Counsel serves at the pleasure of the Board of Supervisors; and

WHEREAS, the 2007-2008 Placer County Charter Review Committee determined that although this has not occurred with the current Board of Supervisors or the present County Counsel, the at-will nature of the County Counsel's appointment could have the potential for undue political pressure to be placed on the County Counsel when rendering opinions; and

WHEREAS, the Board of Supervisors is authorized to propose by ordinance amendments to the County Charter to the electorate;

NOW THEREFORE, the Board of Supervisors of the County of Placer does hereby ordain that a Charter Amendment be proposed to the voters for their consideration and orders that the attached Exhibit "A" ballot title and language be placed before the voters of this County at the general election to be held on November 4, 2008; and that this ordinance be forwarded forthwith to the Election Officer for his action.

EXHIBIT "2-A" -

PROPOSED COUNTY CHARTER AMENDMENT, MEASURE

TO AMEND SECTION 507 OF THE COUNTY CHARTER

BALLOT TITLE: APPOINTMENT OF THE COUNTY COUNSEL TO BE  
CONSISTENT WITH CALIFORNIA GOVERNMENT CODE

BALLOT LANGUAGE:

Shall Article V, Section 507 of the Placer County Charter be amended to change the terms of the County Counsel's employment from at-will employment to employment consistent with the terms of Government Code 27641?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

Ballot Title - Compensation of Board of Supervisors - Compensation Cap

Proposed Amendment

ARTICLE V: DUTIES OF OFFICERS (Continued)

Sec. 507      County Counsel. The County Counsel shall be appointed by the Board of Supervisors and serve ~~at its pleasure~~ **according to the terms of Government Code section 27641 as currently enacted or hereafter amended including any successor statute enacted by the State Legislature to replace it.** Unless his duties are otherwise prescribed or modified by an ordinance of the Board, he shall have all the powers and duties of a County Counsel now or hereafter set forth in the general laws.

