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ADOPTION AND AMENDMENT OF MUNICIPAL CHARTERS

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and \$400.00 per day for the senate, leaving the total \$1,000.00 per day, as at present. The senate amended by making it \$600.00 per day for the assembly, or \$100.00 per day more than at present, and \$500.00 (or as at present) for the senate, making a total of \$1,100.00 per day.

A new law, which I introduced, is now in effect which combines the "file rooms" of each house, making a saving of about \$50.00 per day for help.

Several bills were introduced providing for a "Member's Clerk" for each member; as these bills failed to become laws and as the file rooms will now be combined, I see no reason for the adoption of Assembly Constitutional Amendment No. 23 and therefore recommend that it be defeated.

FRANK M. SMITH,
Assemblyman Thirty-sixth District.

ADOPTION AND AMENDMENT OF MUNICIPAL CHARTERS.

Assembly Constitutional Amendment 25 amending section 8 of article XI of constitution.

Authorizes cities of more than thirty-five hundred population to adopt charters; prescribes method therefor, and time for preparation thereof by freeholders; requires but one publication thereof, copies furnished upon application; provides for approval by legislature, method and time for amendment, and that of several conflicting concurrent amendments one receiving highest vote shall prevail; authorizes charter to confer on municipality all powers over municipal affairs, to establish boroughs and confer thereon general and special municipal powers.

Assembly Constitutional Amendment No. 25, a resolution to propose to the people of the State of California an amendment to section eight of article eleven of the Constitution of the State of California relating to municipal corporations.

The legislature of the State of California, at its regular session commencing on the sixth day of January, 1913, two thirds of the members elected to each of the two houses of said legislature voting in favor thereof, hereby proposes that section 8 of article XI of the Constitution of the State of California be amended to read as follows:

PROPOSED LAW.

Section 8. Any city or city and county containing a population of more than three thousand five hundred inhabitants, as ascertained by the last preceding census taken under the authority of the congress of the United States or of the legislature of California, may from a charter for its own government, consistent with and subject to this constitution; and any city, or city and county having adopted a charter may adopt a new one. Any such charter shall be framed by a board of fifteen freeholders chosen by the electors of such city at any general or special election; but no person shall be eligible as a candidate for such board unless he shall have been, for the five years next preceding, an elector of said city. An election for choosing freeholders may be called by a two-thirds vote of the legislative body of such city, and, on presentation of a petition signed by not less than fifteen per cent of the registered electors of such city, the legislative body shall call such election at any time not less than thirty nor more than sixty days from date of the filing of the petition. Any such petition shall be verified by the authority having charge of the registration records of such city or city and county and the expenses of such verification shall be provided by the legislative body thereof. Candidates for the office of freeholders shall be nominated either in such manner as may be provided for the nomination of officers of the municipal government or by petition, substantially in the same manner as may be provided by general laws for the nomination by petition of electors of candidates for public offices to be voted for at general elections. The board of freeholders shall, within one hundred and twenty days after the result of the election is declared, prepare and propose a charter for the government of such city; but the said period of one hundred and twenty days may with the consent of the legislative body of such city be extended by such board not exceeding a total of sixty days. The charter so prepared shall be signed by a majority of the board of freeholders and filed, in the office

of the clerk of the legislative body of said city. The legislative body of said city shall within fifteen days after such filing cause such charter to be published once in the official paper of said city; (or in case there be no such paper, in a paper of general circulation); and shall cause copies of such charter to be printed in convenient pamphlet form, and shall, until the date fixed for the election upon such charter, advertise in one or more papers of general circulation published in said city a notice that such copies may be had upon application therefor. Such charter shall be submitted to the electors of such city at a date to be fixed by the board of freeholders, before such filing and designated on such charter, either at a special election held not less than sixty days from the completion of the publication of such charter as above provided, or at the general election next following the expiration of said sixty days. If a majority of the qualified voters voting thereon at such general or special election shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be submitted to the legislature, if then in session, or at the next regular or special session of the legislature. The legislature shall by concurrent resolution approve or reject such charter as a whole, without power of alteration or amendment; and if approved by a majority of the members elected to each house it shall become the organic law of such city or city and county, and supersede any existing charter and all laws inconsistent therewith. One copy of the charter so ratified and approved shall be filed with the secretary of state, one with the recorder of the county in which such city is located, and one in the archives of the city; and thereafter the courts shall take judicial notice of the provisions of such charter. The charter of any city or city and county may be amended by proposals therefor submitted by the legislative body of the city on its own motion or on petition signed by fifteen per cent of the registered electors, or both. Such proposals shall be submitted to the electors only during the six months next preceding a regular session of the legislature or thereafter and before the final adjournment of that session and at either a special election called for that purpose or at any general or special election. Petitions for the submission of any amendment shall be filed with the legislative body of the city or city and county not less than sixty days prior to the general election next preceding a regular session of the legislature. The signatures on such petitions shall be verified by the authority having charge of the registration records of such city or city and county, and the expenses of such verification shall be provided by the legislative body thereof. If such petitions have a sufficient number of signatures the legislative body of the city or city and county shall so submit the amendment or amendments so proposed to the electors. Amendments proposed by the legislative body and amendments proposed by petition of the electors may be submitted the same election. The amendments so submitted shall be advertised in the same manner as herein provided for the advertisement of a

proposed charter, and the election thereon held at a date to be fixed by the legislative body of such city, not less than forty and not more than sixty days after the completion of the advertising in the official paper. If a majority of the qualified voters voting on any such amendment vote in favor thereof it shall be deemed ratified, and shall be submitted to the legislature at the regular session next following such election; and approved or rejected without power of alteration in the same manner as herein provided for the approval or rejection of a charter. In submitting any such charter or amendment separate propositions, whether alternative or conflicting, or one included within the other, may be submitted at the same time to be voted on by the electors separately, and, as between those so related, if more than one receive a majority of the votes, the proposition receiving the larger number of votes shall control as to all matters in conflict. It shall be competent in any charter framed under the authority of this section to provide that the municipality governed thereunder may make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. It shall be competent in any charter to provide for the division of the city or city and county governed thereby into boroughs or districts, and to provide that each such borough or district may exercise such general or special municipal powers, and to be administered in such manner, as may be provided for each such borough or district in the charter of the city or city and county.

The percentages of the registered electors herein required for the election of freeholders or the submission of amendments to charters shall be calculated upon the total vote cast in the city or city and county at the last preceding general state election; and the qualified electors shall be those whose names appear upon the registration records of the same or preceding year. The election laws of such city or city and county shall, so far as applicable, govern all elections held under the authority of this section.

Section 8, article XI, proposed to be amended, now reads as follows:

EXISTING LAW.

Section 8. Any city containing a population of more than three thousand five hundred inhabitants as ascertained and established by the last preceding census, taken under the direction of the congress of the United States, or by a census of said city, taken, subsequent to the aforesaid census, under the direction of the legislative body thereof, under laws authorizing the taking of the census of cities, may frame a charter for its own government, consistent with, and subject to, the constitution (or, having framed such a charter, may frame a new one), by causing a board of fifteen freeholders, who shall have been, for at least five years, qualified electors thereof, to be elected by the qualified electors of said city, at a general or special municipal election. Said board of freeholders may be so elected in pursuance of an ordinance adopted by a vote of two thirds of all the members of the council, or other legislative body, of such city, declaring that the public interest requires the election of such board for the purpose of preparing and proposing a charter for said city, or in pursuance of a petition of qualified electors of said city, as hereinafter provided. Such petition, signed by fifteen per centum of the qualified electors of said city computed upon the total number of votes cast therein for all candidates for governor at the last preceding general election at which a governor was elected, praying for the election of a board of fifteen freeholders to prepare and propose a charter for said city, may be filed in the office of the city clerk, within twenty days after the filing of said petition, to examine the same and to ascertain

from the record of the registration of electors of the county, showing the registration of electors of said city, whether the petition is signed by the requisite number of qualified electors of such city. If required by said clerk, the council, or other legislative body, of said city shall authorize him to employ persons specially to assist him in the work of examining such petition, and shall provide for their compensation. Upon the completion of such examination, said clerk shall forthwith attach to said petition his certificate, properly dated, showing the result thereof, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall present the said petition to said council, or other legislative body, at its next regular meeting after the date of such certificate. Upon the adoption of such ordinance, or the presentation of such petition, said council, or other legislative body, shall order the holding of a special election for the purpose of electing such board of freeholders, which said special election shall be held not less than twenty days, nor more than sixty days after the adoption of the ordinance aforesaid, or the presentation of said petition to said council, or other legislative body; provided, that if a general municipal election shall occur in said city not less than twenty days, nor more than sixty days, after the adoption of the ordinance aforesaid, or the presentation of said petition to said council, or other legislative body, said board of freeholders may be elected at such general municipal election. Candidates for election as members of said board of freeholders shall be nominated by petition, substantially in the same manner as may be provided by general laws for the nomination by petition of electors of candidates for public offices to be voted for at general elections.

It shall be the duty of said board of freeholders, within one hundred and twenty days after the result of such election shall have been declared by said council, or other legislative body, to prepare and propose a charter for said city, which shall be signed in duplicate by the members of said board of freeholders, or a majority of them, and be filed, one copy in the office of the city clerk of said city, and the other in the office of the county recorder of the county in which said city is situated. Said council, or other legislative body, shall, thereupon, cause said proposed charter to be published for at least ten times, in a daily newspaper of general circulation, printed, published and circulated in said city; provided, that in any city where no such daily newspaper is printed, published and circulated, such proposed charter shall be published, for at least three times, in at least one weekly newspaper of general circulation, printed, published and circulated in said city, and, in any event, the first publication of such proposed charter shall be made within fifteen days after the filing of a copy thereof, as aforesaid, in the office of the city clerk. Such proposed charter shall be submitted by said council, or other legislative body, to the qualified electors of said city at a special election held not less than twenty days, nor more than forty days, after the completion of such publication; provided, that if a general municipal election shall occur in said city not less than twenty days, nor more than forty days, after the completion of such publication, then such proposed charter may be so submitted at such general election. If a majority of such qualified electors voting thereon at such general or special election shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be submitted to the legislature, if it be in regular session, otherwise at its next regular session, or it may be submitted to the legislature in extraordinary session, for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by a majority vote of the members elected to each house, such charter shall become the charter of such city, or, if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede

any existing charter (whether framed under the provisions of this section of the constitution or not), and all amendments thereof, and all laws inconsistent with such charter. A copy of such charter, certified by the mayor, or other chief executive officer of said city, and authenticated under the seal of such city, setting forth the submission of such charter to the electors of said city, and its ratification by them, shall, after the approval of such charter by the legislature, be made in duplicate and deposited, one in the office of the secretary of state and the other, after being recorded in the office of the recorder of the county in which such city is situated, shall be deposited in the archives of the city, and thereafter all courts shall take judicial notice of said charter.

The charter, so ratified, may be amended by proposals therefor submitted by the council, or other legislative body of the city, to the qualified electors thereof at a general or special municipal election held at intervals of not less than two years (except that charter amendments may be submitted at a general municipal election at an interval of less than two years after the last election on charter amendments provided that no other election on charter amendments has been held since the beginning of the last regular session of the state legislature or shall be held prior to the next regular session of the state legislature), and held not less than twenty days, nor more than forty days, after the completion of the publication of such proposals for ten times in a daily newspaper of general circulation, printed, published and circulated in said city, or for three times in at least one weekly newspaper of general circulation, printed, published and circulated in said city, if there be no such daily newspaper. If a majority of such qualified electors voting thereon at such general or special election shall vote in favor of any such proposed amendment or amendments, or any amendment or amendments proposed by petition, as hereinafter provided, such amendment or amendments shall be deemed to be ratified, and shall be forthwith submitted to the legislature, if it be in regular session, otherwise at its next regular session, or may be submitted to the legislature in extraordinary session, for approval or rejection as a whole, without power of alteration or amendment, and if approved by the legislature, as herein provided for the approval of the charter, such charter shall be amended accordingly. A copy of such amendment or amendments shall, after the approval thereof by the legislature, be made in duplicate, and shall be authenticated, certified, recorded and filed as herein provided for the charter, and with like force and effect. Whenever a petition signed by fifteen per centum of the qualified electors of the city, computed upon the total number of votes cast therein for all candidates for governor at the last preceding general election at which a governor was elected, is filed in the office of the city clerk of said city, petitioning the council, or other legislative body thereof, to submit any proposed amendment or amendments to the charter of such city, which amendment or amendments shall be set forth in full in such petition, to the qualified electors thereof, such petition shall forthwith be examined and certified by the city clerk, and if signed by the requisite number of qualified electors of said city, it shall be presented to the said council, or other legislative body, by the said city clerk, as hereinbefore provided for petitions for the election of boards of freeholders. Upon the presentation of said petition to said council, or other legislative body, said council, or other legislative body, must submit the amendment or amendments set forth in said petition to the qualified electors of said city, at a general or special municipal election, held not less than twenty, nor more than forty, days after the completion of the publication of such proposed amendment or amendments, in the same manner as hereinbefore provided in the case of the submission of any proposed amendment or amendments to such charter, proposed and submitted by the council, or other legislative body. The first publication of any proposed amendment or amendments to such charter so proposed by petition shall be made within fifteen days after the aforesaid presentation of said petition to said

council, or other legislative body. In submitting any such charter, amendment or amendments thereto, any alternative article or proposition may be presented for the choice of the electors, and may be voted on separately without prejudice to others.

Every special election held in any city under the provisions of this section, for the election of a board of freeholders, or for the submission of any proposed charter or any amendment or amendments thereto, shall be called by the council, or other legislative body thereof, by ordinance, which shall specify the purpose and time of such election, and shall establish the election precincts and designate the polling places therein, and the names of the election officers for each such precinct. Such ordinance shall, prior to such election, be published five times in a daily newspaper, or twice in a weekly newspaper, if there be no such daily newspaper printed, published and circulated in said city. Such election shall be held and conducted, the returns thereof canvassed, and the result thereof declared by the council, or other legislative body of such city, in the manner that is now or may be hereafter provided by general law for such elections in the particulars wherein such provision is now or may hereafter be made therefor, and in all other respects in the manner provided by law for general municipal elections, in so far as the same may be applicable thereto.

Whenever any board of freeholders shall be elected, or any such proposed charter or amendment or amendments thereto shall be submitted at a general municipal election, the laws governing the election of city officers, or the submission of propositions to the vote of electors, shall be followed in so far as the same may be applicable thereto and not inconsistent herewith.

It shall be competent in any charter framed by any city under the authority given in this section, or by amendment to such charter, to provide, in addition to those provisions allowed by this constitution and by the laws of the state, for the establishment of a borough system of government for the whole or any part of the territory of such city, by which one or more districts may be created therein, which districts shall be known as boroughs, and which shall exercise special municipal powers as may be granted such charter, and for the organization, regulation, government and jurisdiction of such boroughs.

All the provisions of this section relating to the city clerk shall, in any city and county, be deemed to relate to the clerk of the legislative body thereof.

ARGUMENT IN FAVOR OF ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 25.

This amendment has been drawn to simplify and make definite the provisions by which cities may frame and adopt their charters, so that the validity of the organization of cities thereunder can not be questioned. Two main purposes are served by the amendment:

First—It permits a general grant of power, as to municipal affairs, to be made to a city government by charter instead of necessitating the enumeration of a long list of powers to be exercised, as has been done heretofore. The large numbers of charter amendments offered at each session of the legislature have been made necessary because important powers have been omitted from the original enumeration.

Second—It clears up the present uncertainty as to the times at which a charter election may be held, permitting the cities to hold such elections at any time within six months prior to the regular session of the legislature or at any time during the regular session. As the general state election is held in all cities in November prior to the meeting of the legislature, this will enable the cities to hold their charter election at the same time without additional expense.

Other improvements briefly are as follows:

Third—Provides that petitions for charter elections shall be verified by the officer in custody of the registration records. The present provision is that duty on the city clerk who, in most cases, has nothing to do with those records.

Fourth—It extends the time for considering a choice of freeholders to thirty days. The present provision limits it to twenty days.

Fifth—It permits nominations for freeholder to be made in the simple form used by many cities in nominating municipal officers, as well as by petition under general laws.

Sixth—It permits the time for drawing a charter to be extended sixty days with the consent of the legislative body of the city. Present requirement is that a charter shall be completed in 120 days, which is often too short.

Seventh—Calls for only one publication (instead of ten) in the official paper, and provides further for circulation of the charter in convenient pamphlet form among the voters. The blanket form of publication for charters makes it difficult to read them.

Eighth—Allows at least sixty days for a charter campaign; time is now twenty to forty—too short for a general circulation of the charter, and full discussion.

Ninth—Provides that in case of conflict in the provisions of two or more amendments to a charter the one receiving the higher vote shall govern as to matters in conflict.

Tenth—Simplifies the provision for organization of boroughs.

Eleventh—Reduces the length of this section from five pages to three.

The exceeding complexity of the amendment to this section of the constitution adopted in 1911 has raised many problems in adopting charters or amending them afterwards. This amendment clears up doubts and makes the system simple, certain and flexible.

WM. C. CLARK,
Assemblyman Thirty-seventh District.
ARTHUR L. SHANNON,
Assemblyman Thirty-second District.

LEGISLATIVE CONTROL OF IRRIGATION, RECLAMATION AND DRAINAGE DISTRICTS.

Assembly Constitutional Amendment 47 amending section 13 of article XI of constitution.

Present section unchanged but proviso added authorizing legislature to provide for supervision, regulation and conduct, in such manner as it may determine, of affairs of irrigation, reclamation or drainage districts, organized or existing under laws of this state.

Assembly Constitutional Amendment No. 47, a resolution to propose to the people of the State of California an amendment to the Constitution of the State of California to amend section thirteen of article eleven relating to supervision, regulation and conduct of the affairs of irrigation, reclamation or drainage districts.

The legislature of the State of California at its regular session, commencing on the sixth day of January, 1913, two thirds of the members elected to each of the two houses of the said legislature voting in favor thereof, hereby proposes to the qualified electors of the state that section thirteen of article XI of the Constitution of the State of California be amended to read as follows:

PROPOSED LAW.

Section 13. The legislature shall not delegate to any special commission, private corporation, company, association or individual any power to make, control, appropriate, supervise or in any way interfere with any county, city, town or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments or perform any municipal function whatever, except that the legislature shall have power to provide for the supervision, regulation and conduct, in such manner as it may determine, of the affairs of irrigation districts, reclamation districts or drainage districts, organized or existing under any law of this state.

Section 13, article XI, proposed to be amended, now reads as follows:

EXISTING LAW.

Section 13. The legislature shall not delegate to any special commission, private corporation, company, association, or individual, any power to make, control, appropriate, supervise, or in any way interfere with any county, city, town, or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments, or perform any municipal functions whatever.

ARGUMENT IN FAVOR OF ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 47.

Assembly Constitutional Amendment No. 47 will make no change in section 13 of article XI of the Constitution of California except to add a clause, following the word "whatever," to remove doubt as to the right of the state to provide for "the supervision, regulation and conduct" of irrigation, reclamation and drainage districts, in order to increase confidence in the bonds of such districts.

In recent years considerable legislation has been enacted, especially with reference to irrigation districts, to safeguard the issuance of their bonds and to widen the market for them.

Experience has shown, however, that some measure of state supervision of the affairs of the districts is desirable, at least during the period of the construction of their work, in order to assure investors in their bonds that the proceeds of the bonds will be so expended that the districts will be successful. In construing section 13 of article XI of the constitution as it now stands, our supreme court has held that it applies to irrigation districts.

Therefore the state could not provide for effective supervision of their affairs. It has never been held that this section applies to reclamation and drainage districts, but they have been included in the amendment to remove any doubt as to the right of the state to provide for their supervision. This amendment was suggested by representatives of the districts. It does not affect any other interest and does not commit the state to any policy. It simply makes possible the adoption of such measures for strengthening the securities of these districts as the legislature may find to be desirable.

The amendment was unanimously approved by both houses of the legislature after a careful investigation of its merits, as a practical measure in furtherance of the development of California.

J. A. MURRAY,
Assemblyman Eighth District.
HUGH B. BRADFORD,
Assemblyman Fifteenth District.

Seventeen