Charter Cities: A Quick Summary for the Press and Researchers

The following summary was drafted by the League of California Cities' legal staff, in an attempt to give the press and research communities a primer on some frequently asked questions regarding charter cities.

Charter Cities vs. General Law Cities – The Basics

The California Constitution gives cities the power to become charter cities.[1] The benefit of becoming a charter city is that charter cities have supreme authority over "municipal affairs."[2] In other words, a charter city's law concerning a municipal affair will trump a state law governing the same topic.[3]

Cities that have not adopted a charter are general law cities. General law cities are bound by the state's general law, even with respect to municipal affairs. Of California's 478 cities, 108 of them are charter cities.

The charter city provision of the State Constitution, commonly referred to as the "home-rule" provision, is based on the principle that a city, rather than the state, is in the best position to know what it needs and how to satisfy those needs.[4] The home-rule provision allows charter cities to conduct their own business and control their own affairs.[5] A charter maximizes local control.

A city charter, in effect a city's constitution, need not set out every municipal affair the city would like to govern. So long as the charter contains a declaration that the city intends to avail itself of the full power provided by the California Constitution, any city ordinance that regulates a municipal affair will govern over a general law of the state.[6]

Defining 'Municipal Affairs'

Determining what is and is not a "municipal affair" is not always straightforward. The California Constitution does not define "municipal affair." It does, however, set out a nonexclusive list of four "core" categories that are, by definition, municipal affairs.[7]

These categories are 1) regulation of the "city police force"; 2) "subgovernment in all or part of a city"; 3) "conduct of city elections"; and 4) "the manner in which . . . municipal officers [are] elected."[8] Beyond this list, it is up to the courts to determine what is and is not a municipal affair.

To determine if a matter is a municipal affair, a court will ask whether there are good reasons, grounded on statewide interests, for the state law to preempt a local law.[9] In other words, courts

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[1] Cal. Const. art. XI, § 3(a).
[2] Cal. Const. art. XI, § 5(a).
[3] *Johnson v. Bradley*, 4 Cal. 4th 389, 399 (1992).
[4] *Fragley v. Phelan*, 126 Cal. 383, 387 (1899).
[5] *Id.*
[6] There are some exceptions to this rule. For example, a charter city is bound by the Public Contract Code unless the city's charter expressly exempts the city from the Code's provisions or a city ordinance conflicts with a provision in the Code. *See* Cal. Pub. Cont. Code § 1100.7.
[7] Cal. Const. art. XI, § 5(b); *Johnson*, 4 Cal. 4th at 398.
[8] Cal. Const. art. XI, § 5(b).
[9] *Johnson*, 4 Cal. 4th at 405.

will ask whether there is a need for "paramount state control" in the particular area of law.[10] The Legislature's intent when enacting a specific law is not determinative.[11]

The concept of "municipal affairs" is fluid and may change over time.[12] Issues that are municipal affairs today could become areas of statewide concern in the future.[13] Nonetheless, there are some areas that courts have consistently classified as municipal affairs. These include:

- Municipal election matters[14]
- Land use and zoning decisions (with some exceptions)[15]
- How a city spends its tax dollars[16]
- Municipal contracts, provided the charter or a city ordinance exempts the city from the Public Contract Code, and the subject matter of the bid constitutes a municipal affair.[17] Thus, a charter may exempt a city from the State's competitive bidding statutes.

Likewise, there are some areas that courts have consistently classified as areas of statewide concern, including:

- Traffic and vehicle regulation[18]
- Tort claims against a governmental entity[19]
- Regulation of school systems[20]

How to Become a Charter City

To become a charter city, a city must adopt a charter. There are two ways to adopt a charter:

- The city's voters elect a charter commission.[21] The commission has the responsibility of drafting and debating the charter.

- The governing board of the city, on its own motion, drafts the charter.[22]

In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city's voters.[23]

For more information about charter cities, please visit the "Charter Cities" section of the League's Web site at http://www.cacities.org/chartercities.

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[10] *Id.* at 400.
[11] *Id.* at 405.
[12] *Cal. Fed. Savings & Loan Ass'n v. City of Los Angeles*, 54 Cal. 3d 1, 16 (1991); *Isaac v. City of Los Angeles*, 66 Cal. App. 4th 586, 599 (1998).
[13] *Isaac*, 66 Cal. App. 4th at 599.
[14] *Mackey v. Thiel*, 262 Cal. App. 2d 362, 365 (1968).
[15] *See Brougher v. Bd. of Pub. Works*, 205 Cal. 426, 440 (1928).
[16] *Johnson*, 4 Cal. 4th at 407.
[17] Pub. Cont. Code § 1100.7; *R & A Vending Services, Inc. v. City of Los Angeles*, 172 Cal. App. 3d 1188, 1191 (1985); *Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.*, 71 Cal. App. 4th 38, 51 (1998).
[18] Cal. Veh. Code § 21.
[19] *Helbach v. City of Long Beach*, 50 Cal. App. 2d 242, 247 (1942).
[20] *Whisman v. San Francisco Unified Sch. Dist.*, 86 Cal. App. 3d 782, 789 (1978).
[21] Cal. Gov't Code § 34451.
[22] Cal. Gov't Code § 34458.
[23] Cal. Gov't Code §§ 34457, 34462.