

Association of Deputy District Attorneys



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Sent Via Email

July 27, 2020

Honorable Kathryn Barger, Chair
Board of Supervisors
County of Los Angeles
KH Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

RE: OPPOSITION TO PROPOSED CHARTER AMENDMENT A-4

Dear Supervisor Barger:

The Association of Deputy District Attorneys (ADDA) takes this opportunity to strongly oppose the aforementioned initiative. A partial, but by no means exhaustive, list of the basis of our opposition includes the following:

1. The proposed Charter amendment violates the California Constitution.

Subdivision (a) of Article 11 Section 11 of the California Constitution states that, "The Legislature may not delegate to a private person or body power to make, control, appropriate, supervise, or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions."

The Supervisor's designated exclusive authority over the budget, pursuant to California Government Code 29000 et seq. can neither be usurped by initiative nor delegated.

In *Totten v. Board of Supervisors* (2006) 139 Cal.App.4th 826, an ordinance enacted by ballot initiative dedicating a minimum funding amount of the county's budget for public safety agencies was invalidated by the Court of Appeal. The Court stated the following.

We conclude that, in enacting sections 29000–29093, the Legislature intended that the authority to adopt budgets for county public safety agencies be exercised specifically and exclusively by the board of supervisors, barring use of the local initiative power. Our conclusion is based on the following factors: (1) statutory language in sections 29000–29093 expressly delegates authority over the county budget to the board of supervisors; (2) county budgets for public safety agencies are a matter of statewide concern; and (3) as sections 4 and 5 of the Ordinance illustrate, application of the initiative process to county public safety budgets would seriously impair the board of supervisors' essential governmental function of managing the county's financial affairs.

(*Id.* at 839-840.) Likewise, in *County of Sonoma v. Superior Court* (2009) 173 Cal.App.4th 322, the Court of Appeal held that a statute providing that an arbitration panel's decision shall be binding unless rejected by unanimous vote of all members of agency's governing body violated, on its face, state constitution's provision stating that legislature may not delegate to

private person or body the power to make, control, appropriate, supervise, or interfere with county money or perform municipal functions.

2. The proposed Charter amendment violates the California Government Code by usurping the authority of the District Attorney and by denying restorative justice to defendants.

The District Attorney has the sole discretion to file, decline to file, or dismiss charges. *People v. Dehle (2008)* 166 Cal.App. 4th 1380. Proposed Charter Section 11(8)(A)(ii) violates California Government Code § 25303 because it designates funding for restorative justice and diversion programs but precludes any of the funding for those programs from going to or through the District Attorney. These programs are contingent on the premise that the District Attorney will either decline to file charges or will dismiss charges upon certain conditions being met. The net effect of the proposed language will prevent the residents of Los Angeles County from accessing restorative justice and diversion programs.

3. The proposed Charter amendment is a violation of your Oath of Office as a member of the Board of Supervisors.
4. The proposed Charter amendment is in violation of the Meyers-Milias-Brown Act.
5. There has been inadequate public notice and precious little opportunity for public input.
6. The proposed Charter amendment is a knee-jerk reaction to the recent civic unrest and not the product of thoughtful deliberation from a broad cross-section of stakeholders.
7. The United Way, as one of the principal beneficiaries of the proposed Charter amendment, has a built-in conflict of interest.
8. The alleged objective survey on which your Board has heavily relied was commissioned by the United Way.
9. The accuracy and objectivity of the survey has not verified by any qualified independent polling organization.

We urge your Board to reconsider your intended action and then terminate your proposed effort to amend the Charter.

We thank you for your thoughtful consideration. We stand ready to help.

Sincerely,



Michele Hanisee
President

MH/JR/jk

cc: All Members of the Board Supervisors
Chief Executive Officer Sachi Hamai
County Counsel Mary Wickham