

House Joint Resolution 9

County Government: Hullinger, Chair; Danker, Spear, Stromer and Wyckoff.

No Pass 1/24 (p. 238)

MAR 31 1977

Place On Calendar

HOUSE JOINT RESOLUTION

9

By COMMITTEE ON COUNTY GOVERNMENT

(Formerly Study Bill 37)

Substituted for SJR 2001 2/14

Passed House, Date 1-31-78 (p. 289) Passed Senate, Date 2-14-78 (p. 366)

Vote: Ayes 89 Nays 7 Vote: Ayes 44 Nays 5

Approved \_\_\_\_\_

HOUSE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution  
2 of the State of Iowa to provide home rule for counties and  
3 joint county-municipal corporation governments.

5136 }

4 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5

HOUSE JOINT RESOLUTION 9

H-5178

1 Amend House Joint Resolution 9 as follows:  
2 1. Page 1, by striking lines 13 through 15 and  
3 inserting in lieu thereof the words "municipal corpora-  
4 tion governments."  
5 2. Page 1, by striking lines 24 through 32 and  
6 inserting in lieu thereof the following:  
7 "Sec. 2. The foregoing proposed amendment to the  
8 Constitution of the State of Iowa is hereby referred  
9 to the general assembly to be chosen at the next  
10 general election for members of the general assembly  
11 and the secretary of state is directed to cause the  
12 same to be published for three consecutive months  
13 previous to the date of said election as provided  
14 by law."

H-5178 FILED - Last 1/31 (288) BY HULLINGER of Decatur  
JANUARY 30, 1978 DANKER of Pottawattamie  
WYCKOFF of Benton  
DAGGETT of Adams  
SCHEELHAASE of Woodbury

HOUSE JOINT RESOLUTION 9

H-5172

1 Amend House Joint Resolution 9 as follows:  
2 1. Page 1, line 15, by inserting after the  
3 word "governments." the following: "A county-  
4 municipal corporation shall not be formed without  
5 approval of the majority of those voters voting  
6 from each of the affected jurisdictions at a  
7 special election called for that purpose."

H-5172 FILED - 1/28 1/31 (288) BY SCHNEKLOTH of Scott  
JANUARY 30, 1978 WOODS of Polk

1 Section 1. The following amendment to the Constitution  
2 of the State of Iowa is hereby proposed:

3 Article three (III), legislative department, Constitution  
4 of the State of Iowa is hereby amended by adding the follow-  
5 ing new section:

6 NEW SECTION. Counties or joint county-municipal corpora-  
7 tion governments are granted home rule power and authority,  
8 not inconsistent with the laws of the general assembly, to  
9 determine their local affairs and government, except that  
10 they shall not have power to levy any tax unless expressly  
11 authorized by the general assembly. The general assembly  
12 may provide for the creation and dissolution of joint county-  
13 municipal corporation governments. The general assembly may  
14 provide for the establishment of charters in county or joint  
15 county-municipal corporation governments.

16 If the power or authority of a county conflicts with the  
17 power and authority of a municipal corporation, the power  
18 and authority exercised by a municipal corporation shall  
19 prevail within its jurisdiction.

20 The proposition or rule of law that a county or joint  
21 county municipal corporation government possesses and can  
22 exercise only those powers granted in express words is not  
23 a part of the law of this state.

24 Sec. 2. The foregoing proposed amendment, having been  
25 adopted and agreed to by the Sixty-sixth General Assembly,  
26 thereafter duly published, and now adopted and agreed to by  
27 the Sixty-seventh General Assembly, in this Joint Resolu-  
28 tion, shall be submitted to the people of the State of Iowa  
29 at the general election in November of the year nineteen  
30 hundred seventy-eight (1978) in the manner required by the  
31 Constitution of the State of Iowa and the laws of the State  
32 of Iowa.

33 EXPLANATION

34 This amendment will provide home rule powers and authority  
35 for counties or joint county-municipal corporation govern-

1 ments. The home rule powers and authority cannot be incon-  
2 sistent with state law and the power to tax is limited to  
3 those taxes expressly authorized by the general assembly.

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LSB 285H  
trj/rh/8A

HOUSE JOINT RESOLUTION 9

S-5136

1 Amend House Joint Resolution 9 as follows:

2 1. By striking pages 1 and 2 and inserting in  
3 lieu thereof the following:

4 "Section 1. The following amendment to the  
5 Constitution of the State of Iowa is hereby proposed:

6 Article three (III), legislative department,  
7 Constitution of the State of Iowa is hereby amended  
8 by adding the following new section:

9 NEW SECTION. Any county may frame a home rule  
10 charter for the structure and powers of its own  
11 government or for the structure and powers of county  
12 government and the government of one or more municipal  
13 corporations within the county, consistent with the  
14 Constitution of this state.

15 At the general election to be held in the year  
16 1982, and in each tenth year thereafter, and also  
17 at such times as the governing body of a county may,  
18 by resolution, provide that the question, "Shall there  
19 be a charter convention for the purpose of  
20 establishing, revising or abolishing charter home  
21 rule in this county?", shall be decided by the electors  
22 qualified to vote in such county for members of the  
23 general assembly; and in case a majority of the  
24 electors so qualified, voting at such election, for  
25 and against such proposition, shall decide in favor  
26 of a charter convention, the governing body of the  
27 county, within sixty days following such election  
28 shall establish a procedure for the election of  
29 delegates to such charter convention, and for  
30 submitting the results of said charter convention,  
31 in the form of a proposed charter, to the people,  
32 in such manner and within such time as the governing  
33 body of the county shall provide; and if the people  
34 of the county shall approve and ratify such proposed  
35 charter by a majority of the electors qualified to  
36 vote in such county for members of the general  
37 assembly, voting thereon, such charter shall become  
38 the newly established organic law of that county in  
39 accordance with the terms thereof.

40 Whenever the question calling for a charter  
41 convention within a county is submitted to the electors  
42 for decision, the further question, "Does this  
43 municipal corporation desire to be governed by the  
44 terms of a county charter?", shall also be decided  
45 in each municipal corporation within the county that  
46 is not so governed, by the electors qualified to vote  
47 in each such municipal corporation for members of  
48 the general assembly; and in case a majority of the  
49 electors so qualified, voting at any such election,  
50 for and against such proposition, shall decide that

1 the municipal corporation does desire to be governed  
2 by the terms of a county charter, the governing body  
3 of the county charter, if required by countywide vote  
4 to establish a procedure for the election of delegates  
5 to a charter convention, shall also establish in its  
6 election procedure an assurance of delegate  
7 representation from each municipal corporation which  
8 has indicated its desire to be governed by the terms  
9 of a county charter. The vote at which the people  
10 of the county may approve and ratify a charter for  
11 county purposes shall also serve to determine if that  
12 charter has been approved and ratified for municipal  
13 purposes by any of the municipal corporations which  
14 had theretofore indicated a desire to be governed  
15 by the terms of a county charter and had accordingly  
16 participated in the charter convention. If the people  
17 of a municipal corporation, at said charter vote,  
18 shall approve and ratify such proposed charter by  
19 a majority of the electors qualified to vote in such  
20 municipal corporation for members of the general  
21 assembly, voting thereon, such charter shall become,  
22 upon its approval and ratification for county purposes,  
23 the newly established organic law of that municipal  
24 corporation.

25 The governing body of a county may present to the  
26 electors a proposition to amend or dissolve an existing  
27 charter, but any such proposition shall not become  
28 effective unless it is approved in the same manner  
29 and with the same formality as would be required to  
30 approve and ratify the results of a charter convention.  
31 Neither this amendatory power nor that which is  
32 implicit in the powers given to a charter convention  
33 shall prohibit the inclusion within a charter of more  
34 restrictive terms and conditions affecting the right  
35 to amend the same; in which case, those restrictive  
36 terms and conditions shall not be abrogated except  
37 through compliance therewith or by an act of the  
38 general assembly declaring the restrictions, or any  
39 of them, to be against public policy. In submitting  
40 a proposed charter, charter amendment, or terms for  
41 abolishing a charter, alternate articles or  
42 propositions may be presented for the choice of the  
43 voters and may be voted on separately without prejudice  
44 to others.

45 A charter so established shall supersede all laws  
46 inconsistent therewith, save only that it be consistent  
47 with the Constitution of this state.

48 The position and term of all elective officers  
49 who are in office at the time of the approval of a  
50 home rule charter shall terminate or continue as

1 provided in the charter.

2 Counties functioning under charters shall continue  
3 to act in an administrative capacity for the state.  
4 In that capacity such counties shall continue to have  
5 all the rights, powers, privileges, and benefits then  
6 possessed or thereafter conferred by general law or  
7 the charter. All such authority granted to and imposed  
8 on the county officers by general law shall be vested  
9 in the governing body of the county unless expressly  
10 vested in specific officers by the charter. The gov-  
11 erning body may by resolution delegate any of its  
12 executive or administrative powers, authority, or  
13 duties not expressly vested in specific officers by  
14 the charter, to any county officer or officers or  
15 county employee or employees.

16 The general assembly may by passage of a law  
17 receiving a majority vote of both houses discontinue  
18 specific taxes or methods of collecting revenues  
19 established in such charters, but not in a manner  
20 to jeopardize rights of existing bond holders.

21 Sec. 2. The foregoing proposed amendment to the  
22 Constitution of the State of Iowa is hereby referred  
23 to the general assembly to be chosen at the next  
24 general election for members of the general assembly  
25 and the secretary of state shall cause the same to  
26 be published for three consecutive months previous  
27 to the date of said election as provided by law."

28 2. Amend the title by striking lines 2 and 3 and  
29 inserting in lieu thereof the following: "of the  
30 State of Iowa to allow counties to adopt charters  
31 and provide home rule for county governments or for  
32 county-municipal corporation governments."

HOUSE JOINT RESOLUTION 9

S-5182

1 Amend House Joint Resolution 9, as passed by the  
2 House as follows:

3 1. Page 2, by inserting after line 3 the  
4 following addition to the explanation: "Studies by  
5 the General Assembly have determined that the county  
6 home rule constitutional amendment will have the  
7 following legal effect:

8 1. The constitutional amendment will be effective  
9 immediately upon ratification.

10 2. The constitutional amendment affecting counties  
11 is self-executing but because existing state laws  
12 relating to the powers and duties of counties and county  
13 officers are not based on home rule authority, review  
14 and modernization of all county statutes by the General  
15 Assembly will be necessary.

16 3. The establishment of charters and joint county-  
17 municipal corporation governments will require the  
18 enactment of enabling legislation by the General Assembly.

19 4. A charter is a legislative grant of authority  
20 by the General Assembly and, therefore, a charter or  
21 any charter provision authorized by an Act of the General  
22 Assembly is subject to amendment or repeal by a subsequent  
23 Act of the General Assembly.

24 5. The rule or proposition of law that a county  
25 or joint county-municipal corporation government possesses  
26 and can exercise only those powers granted in express  
27 words will no longer apply in this state. Counties and  
28 joint county-municipal corporation governments may  
29 exercise any governmental powers which are not inconsistent  
30 with state law, except that the imposition of taxes shall  
31 require a specific grant of authority by state law."

S-5182 FILED  
FEBRUARY 14, 1978  
RULED OUT OF ORDER

BY JAMES M. REDMOND  
JOHN S. MURRAY  
C. W. HUTCHINS  
JAMES E. BRILES  
JOAN ORR

HOUSE JOINT RESOLUTION 9

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF IOWA TO PROVIDE HOME RULE FOR COUNTIES AND JOINT COUNTY-MUNICIPAL CORPORATION GOVERNMENTS.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. The following amendment to the Constitution of the State of Iowa is hereby proposed.

Article three (III), legislative department, Constitution of the State of Iowa is hereby amended by adding the following new section:

NEW SECTION. Counties or joint county-municipal corporation governments are granted home rule power and authority, not inconsistent with the laws of the general assembly, to determine their local affairs and government, except that they shall not have power to levy any tax unless expressly authorized by the general assembly. The general assembly may provide for the creation and dissolution of joint county-municipal corporation governments. The general assembly may provide for the establishment of charters in county or joint county-municipal corporation governments.

If the power or authority of a county conflicts with the power and authority of a municipal corporation, the power and authority exercised by a municipal corporation shall prevail within its jurisdiction.

The proposition or rule of law that a county or joint county-municipal corporation government possesses and can exercise only those powers granted in express words is not a part of the law of this state.

Sec. 2. The foregoing proposed amendment, having been adopted and agreed to by the Sixty-sixth General Assembly, thereafter duly published, and now adopted and agreed to by

the Sixty-seventh General Assembly, in this Joint Resolution, shall be submitted to the people of the State of Iowa at the general election in November of the year nineteen hundred seventy-eight (1978) in the manner required by the Constitution of the State of Iowa and the laws of the State of Iowa.

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DALE M. COCHRAN  
Speaker of the House

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ARTHUR A. NEU  
President of the Senate

I hereby certify that this joint resolution originated in the House is known as House Joint Resolution 9, Sixty-seventh General Assembly.

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DAVID L. WRAY  
Chief Clerk of the House