

COUNTY HOME RULE JOINT SUBCOMMITTEE  
OF THE  
STANDING COMMITTEES ON COUNTY GOVERNMENT

Report to Members of the  
Second Session of the Sixty-seventh General Assembly

State of Iowa  
1978

FINAL REPORT  
JOINT SUBCOMMITTEE ON COUNTY HOME RULE  
OF THE  
SENATE AND HOUSE COMMITTEES ON COUNTY GOVERNMENT

December, 1977

Organization

The Joint Subcommittee on County Home Rule of the Senate and House Committees on County Government was created by the Legislative Council at its August 9-10, 1977 meeting to study the impact of Senate Joint Resolution 1006 (County Home Rule Constitutional Amendment) as passed by the Sixty-sixth General Assembly.

The members appointed to the Joint Subcommittee are:

Senator James M. Redmond, Co-chairperson  
Representative Arlo Hullinger, Co-chairperson  
Senator James E. Briles  
Senator C. W. Hutchins  
Senator John S. Murray  
Senator Joan Orr  
Representative Arlyn E. Danker  
Representative Clay Spear  
Representative Delwyn Stromer  
Representative Russell L. Wyckoff

Meetings

The Joint Subcommittee held two meetings on September 13, 1977 and December 12, 1977. At each of the meetings, the Subcommittee received testimony from the Institute of Public Affairs at the University of Iowa, the Public Services Research Corporation (Des Moines-Polk County organization studying governmental operations and service delivery systems), county officers, and other interested persons.

The Institute of Public Affairs presented research documents relating to the types of county home rule constitutional amendments in effect in other states and a number of alternative structure and management options which could be provided by the General Assembly to implement the proposed home rule amendment. County officers and other persons testifying before the Joint Subcommittee generally agreed that the concept of home rule would be beneficial to the operation and structure of county government, but there is disagreement concerning the language of the proposed county home rule amendment (Senate Joint Resolution 1006 as passed by the Sixty-sixth General Assembly). Some supporters of the home rule concept advocate language in the proposed amendment specifying the alternative forms of governmental structure and management which could be selected by the counties.

A major issue discussed by the Joint Subcommittee at both meetings concerned the meaning of the term "charter" as used in the proposed amendment. The proposed amendment contains the following sentence relating to charters:

"The general assembly may provide for the establishment of charters in county or joint county-municipal corporation governments."

Members of the Joint Subcommittee disagreed about whether this provision may prohibit the General Assembly from changing or rescinding the authority to adopt charters or specific provisions of charters which are authorized by the General Assembly and subsequently adopted by one or more counties. There is agreement that charters could not be adopted by counties without authorization of the General Assembly, but disagreement as to whether the general authorization or specific charter provisions can be changed or rescinded by statute after adoption by a county.

#### Meaning and Impact of the Charter Provision

1. The Senate members of the Joint Subcommittee attending the December 12 meeting (Senators Redmond, Hutchins, Murray and Briles) agree that enabling legislation is necessary for counties for joint county-municipal governments to adopt charters and that any proposal charter should be subject to voter approval before becoming effective. The Senate members also agree that charter as authorized in Senate Joint Resolution 1006 is a legislative grant of authority and the General Assembly retains the power to change, restrict or rescind any grant of power relating to a charter or any charter provision including any charter which has been adopted.

2. The House members of the Joint Subcommittee attending the December 12 meeting (Representatives Hullinger, Danker and Spear) agree that enabling legislation is necessary to implement the charter provision, but they disagree that the charter provision as written retains for the General Assembly the power to change, restrict or rescind a charter or a charter provision which has been adopted. The House members agree that the meaning and impact of the charter provision cannot be clearly determined by the wording of the amendment.

#### Findings

At the conclusion of the study, the Joint Subcommittee agreed to the following findings if Senate Joint Resolution 1006, as passed by the Sixty-sixth General Assembly, is passed by the Sixty-seventh General Assembly and ratified by the state electorate:

1. The rule of law or proposition (Dillon's Rule) that a county or joint county-municipal corporation government possesses and can exercise only those powers granted in express words would no longer apply in Iowa. Counties and joint county-municipal

corporation governments may exercise any governmental powers which are not inconsistent with state law, except that the imposition of taxes shall require a specific grant of authority by state law. (Bechtel vs. City of Des Moines, 225 N.W. 2nd 336)

2. The constitutional amendment will be effective immediately upon ratification.

3. The home rule amendment is self-executing but because of existing state laws relating to the powers and duties of counties and county officials legislation will be needed to remove unnecessary restrictions.

4. The adoption of charter and the establishment of joint county-municipal corporation governments will require the enactment of enabling legislation by the General Assembly.

#### Recommendations

1. On a motion that the Joint Subcommittee on County Home Rule recommend passage by the Sixty-seventh General Assembly, the county home rule amendment in identical form as provided in Senate Joint Resolution 1006 and passed by the Sixty-sixth General Assembly, the Joint Subcommittee members voted separately as House and Senate Subcommittees.

a. The Senate Subcommittee recommends that the Senate Committee on County Government approve and recommend passage by the Senate of a joint resolution containing county home rule amendment identical to the amendment in Senate Joint Resolution 1006 as passed by the Sixty-sixth General Assembly.

b. The House Subcommittee voted not to recommend passage without amendment.

2. The Joint Subcommittee on County Home Rule recommends that the Committees on County Government, upon reporting a joint resolution proposing a constitutional amendment on county home rule, prepare for inclusion in the respective House and Senate Journals a statement of legislative intent of the Committee as to the meaning and implementation of county or joint county-municipal corporation government charter.

3. The Joint Subcommittee on County Home Rule recommends that if the county home rule constitutional amendment as provided in Senate Joint Resolution 1006 is passed by the Sixty-seventh General Assembly, a special interim study committee be created with adequate funding and experienced staff to review and recommend revision to existing statutes relating to county government and

draft enabling legislation to implement the county home rule amendment if it is ratified.

Respectfully submitted,

Senator James. E. Redmond, Co-chairperson  
Representative Arlo Hullinger, Co-chairperson