

House Concurrent Resolution No. 5017

By Representative Dodson

12-11

1 A PROPOSITION to amend article 9 of the constitution of the state of
2 Kansas by adding a new section thereto; concerning the power of
3 home rule for counties.
4

5 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*
6 *members elected (or appointed) and qualified to the House of*
7 *Representatives and two-thirds of the members elected (or appointed)*
8 *and qualified to the Senate concurring therein:*

9 Section 1. The following proposition to amend the constitution of
10 the state of Kansas shall be submitted to the qualified electors of the state
11 for their approval or rejection: Article 9 of the constitution of the state of
12 Kansas is hereby amended by adding a new section to read as follows:

13 **"§ 6. Counties' power of home rule.** (a) Counties are
14 hereby empowered to determine their local affairs and
15 government including the levying of taxes, excises, fees,
16 charges and other exactions, except when and as the levying of
17 any tax, excise, fee, charge or other exaction is limited or
18 prohibited by enactment of the legislature applicable uniformly
19 to all counties of the same class. The legislature may establish
20 not to exceed four classes of counties for the purpose of
21 imposing all such limitations or prohibitions. Counties shall
22 exercise such determination by resolution passed by the
23 governing body with referendums only in such cases as
24 prescribed by the legislature, subject only to enactments of the
25 legislature of statewide concern applicable uniformly to all
26 counties, to other enactments of the legislature applicable
27 uniformly to all counties, to enactments of the legislature
28 applicable uniformly to all counties of the same class limiting or
29 prohibiting the levying of any tax, excise, fee, charge or other
30 exaction and to enactments of the legislature prescribing limits
31 of indebtedness. All enactments relating to counties now in
32 effect or hereafter enacted and as later amended and until
33 repealed shall govern counties, except as counties shall exempt
34 themselves by charter resolutions as herein provided for in
35 subsection (b).

36 (b) (1) Any county may by charter resolution elect in the

1 manner prescribed in this section that the whole or any part of
2 any enactment of the legislature applying to such county, other
3 than enactments of statewide concern applicable uniformly to
4 all counties, other enactments applicable uniformly to all
5 counties, and enactments prescribing limits of indebtedness,
6 shall not apply to such county.

7 (2) A charter resolution is a resolution which exempts a
8 county from the whole or any part of any enactment of the
9 legislature as referred to in this section and which may provide
10 substitute and additional provisions on the same subject. Such
11 charter resolution shall be so titled, shall designate specifically
12 the enactment of the legislature or part thereof made
13 inapplicable to such county by the adoption of such resolution
14 and contain the substitute and additional provisions, if any, and
15 shall require a two-thirds vote of the members-elect of the
16 governing body of such county. Every charter resolution shall
17 be published once each week for two consecutive weeks in the
18 official county newspaper or, if there is none, in a newspaper of
19 general circulation in the county.

20 (3) No charter resolution shall take effect until 60 days
21 after its final publication. If, within 60 days of its final
22 publication, a petition signed by a number of electors of the
23 county equal to not less than 10% of the number of electors who
24 voted at the last preceding regular county election shall be filed
25 in the office of the clerk of such county demanding that such
26 resolution be submitted to a vote of the electors, it shall not take
27 effect until submitted to a referendum and approved by a
28 majority of the electors voting thereon. An election, if called,
29 shall be called within 30 days and held within 90 days after the
30 filing of the petition. The governing body shall pass a resolution
31 calling the election and fixing the date, which resolution shall
32 be published once each week for three consecutive weeks in the
33 official county newspaper or, if there is none, in a newspaper of
34 general circulation in the county, and the election shall be
35 conducted as elections for officers and by the officers handling
36 such elections. The proposition shall be: "Shall charter
37 resolution No. _____, entitled (title of resolution) take
38 effect?" The governing body may submit any charter resolution
39 to a referendum without petition by the same publication of the
40 charter resolution, and the same publication of the resolution
41 calling the election as for resolutions upon petition and such
42 charter resolution shall then become effective when approved
43 by a majority of the electors voting thereon. Each charter

1 resolution becoming effective shall be recorded by the county
2 clerk in a book maintained for that purpose with a statement of
3 the manner of adoption, and a certified copy shall be filed with
4 the secretary of state, who shall keep an index of the same.

5 (4) Each charter resolution enacted shall control and
6 prevail over any prior or subsequent act of the governing body
7 of the county, and may be repealed or amended only by charter
8 resolution or by enactments of the legislature applicable to all
9 counties.

10 (c) Powers and authority granted to counties pursuant to
11 this section shall be liberally construed for the purpose of giving
12 to counties the largest measure of self-government.

13 (d) This amendment shall be effective on and after July 1,
14 2025."

15 Sec. 2. The following statement shall be printed on the ballot with
16 the amendment as a whole:

17 "*Explanatory statement.* This amendment would provide a
18 constitutional basis for county home rule, which is currently
19 enshrined only in statutory law. Counties could pass home
20 rule resolutions to legislate locally on matters not covered by
21 state law. A county could enact a charter resolution to
22 exempt itself from non-uniform state laws that apply to the
23 county and provide substitute or additional provisions to that
24 law. The legislature could preempt counties from exercising
25 home rule powers by enacting state laws that apply
26 uniformly to all counties, or, when the legislature levies a
27 county tax, excise, fee, charge or other exaction, when such
28 levy applies uniformly to all counties of the same class, as
29 defined by statute.

30 "A vote for this proposition would empower counties to
31 determine their local affairs and government with a
32 constitutional grant of power that could only be preempted
33 by enactments of the legislature that apply uniformly to all
34 counties.

35 "A vote against this proposition would retain the current
36 statutory authority of counties to determine their local affairs
37 and government, but such authority could continue to be
38 removed or restricted by enactments of the legislature,
39 regardless of uniformity."

40 Sec. 3. This resolution, if approved by two-thirds of the members
41 elected (or appointed) and qualified to the House of Representatives and
42 two-thirds of the members elected (or appointed) and qualified to the
43 Senate, shall be entered on the journals, together with the yeas and nays.

1 The secretary of state shall cause this resolution to be published as
2 provided by law and shall cause the proposed amendment to be submitted
3 to the electors of the state at the general election in November in the year
4 2024, unless a special election is called at a sooner date by concurrent
5 resolution of the legislature, in which case the proposed amendment shall
6 be submitted to the electors of the state at the special election.