

By: Gallego

H.J.R. No. 95

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the adoption of  
2 county home-rule charters.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Article IX, Texas Constitution, is amended by  
5 adding Section 3 to read as follows:

6 Sec. 3. (a) A county with a population of 5,000 or more  
7 according to the most recent United States decennial census may by  
8 majority vote of the qualified voters of the county at an election  
9 held for that purpose adopt a county home-rule charter to assume the  
10 powers appropriate to home rule as provided by this section. A  
11 county may by a majority vote of the qualified voters of the county  
12 amend its county home-rule charter to include other powers,  
13 functions, duties, and rights that may be provided for counties by  
14 the constitution or statutes of this state. The adoption of a  
15 county home-rule charter under this section is subject to the  
16 limitations as may be prescribed by statute. No county home-rule  
17 charter or order adopted by a county under a county home-rule  
18 charter may contain a provision inconsistent with the constitution  
19 or statutes of this state.

20 (b) A county home-rule charter may provide for the  
21 continuance of the commissioners court of the county to serve as the  
22 governing body of the county or may provide for a governing body  
23 otherwise constituted. If a county home-rule charter provides for  
24 an alternately constituted governing body, the members of the

1 governing body must be elected, and the charter must provide for a  
2 plan of representation and the qualifications, terms, conditions of  
3 tenure, and compensation of members of the governing body. The  
4 terms of service for members of an alternately constituted  
5 governing body under this subsection may exceed two years but may  
6 not exceed six years. In addition to the powers and duties provided  
7 by the county home-rule charter, an alternately constituted  
8 governing body under this subsection shall exercise the powers and  
9 discharge the duties that, in the absence of the provisions of this  
10 subsection, would devolve by law on members of the commissioners  
11 court of the county.

12 (c) A county home-rule charter may provide for the  
13 organization, reorganization, establishment, and administration of  
14 the government of the county, including the control and regulation  
15 of the performance of and the compensation for all duties required  
16 in the conduct of the county affairs. A county home-rule charter  
17 may provide that judges of county courts, including the county  
18 court designated in this constitution, and justices of the peace be  
19 compensated on a salary basis in lieu of fees. The jurisdiction of  
20 the county court designated in this constitution, and the duties of  
21 the judge of the county court, may be confined to that general  
22 jurisdiction of a probate court. A county home-rule charter may  
23 provide that the justices of the peace may be elected or appointed.  
24 Except as provided by this subsection, a county home-rule charter  
25 may not provide for altering the jurisdiction or procedure of any  
26 court. A county home-rule charter as to all judicial officers,  
27 other than district judges, may prescribe the qualifications for

1 service, provided that the standards may not be lower than the  
2 standards fixed by statute. The duties of a district attorney or  
3 county attorney may be confined to representing the state in civil  
4 cases to which the state is a party and to enforcement of the  
5 state's criminal laws. The compensation for district attorneys and  
6 county attorneys may be fixed on a salary basis in lieu of fees.

7 (d) A county home-rule charter may grant the governing body  
8 of the county the power to create, consolidate, or abolish any  
9 office or department created by constitution or statute and, for  
10 any office or department affected, define the duties, fix the  
11 compensation for service, make the office elective or appointive,  
12 and prescribe the time, qualifications, and conditions for tenure  
13 in the office. A county home-rule charter may not, except as  
14 provided by this section, regulate the status, service, duties, or  
15 compensation of members of the legislature, judges of the courts,  
16 district attorneys, county attorneys, or any office established by  
17 statute required to be filled by an election in more than one  
18 county. At the time a county home-rule charter is adopted, all  
19 terms of county officers and all contracts for providing service by  
20 deputies under county officers may be subject to termination by the  
21 administrative body of the county as provided by the county  
22 home-rule charter, and the county is not liable as a result of any  
23 termination.

24 (e) A county that adopts a county home-rule charter may, by  
25 charter provision, levy, assess, and collect taxes and fix the  
26 maximum rate for ad valorem taxes to be levied for specific purposes  
27 in accordance with the constitution or statutes of this state,

1 provided that the limit of the aggregate taxes that may be levied,  
2 assessed, and collected may not exceed the limit or total fixed by  
3 this constitution to control counties, and the annual assessment on  
4 real, personal, and mixed property is a first, superior, and prior  
5 lien on property.

6 (f) A county that adopts a county home-rule charter may  
7 borrow money for all purposes lawful under its charter, including  
8 the refunding of a lawful debt, in a manner conforming to the  
9 statutes of the state, and may issue obligations. The obligations,  
10 other than those to refund a lawful debt, are not valid unless  
11 authorized by a majority of the qualified voters of the area  
12 affected by the taxes required to retire the obligations.

13 (g) A county home-rule charter may authorize the governing  
14 body of the county to prescribe the schedule of fees to be charged  
15 by the officers of the county for a specified service, to be in lieu  
16 of the schedule for fees prescribed by statute and to provide for  
17 the appropriate disposition of the fees, provided that no fee for a  
18 specified service may exceed in amount the fee fixed by statute for  
19 that same service.

20 (h) A county home-rule charter shall provide for the  
21 abandonment, revocation, and amendment of the charter by the  
22 majority vote of the qualified voters of the county. A county  
23 home-rule charter may not forbid an amendment for a period greater  
24 than two years.

25 SECTION 2. This proposed constitutional amendment shall be  
26 submitted to the voters at an election to be held November 3, 2009.  
27 The ballot shall be printed to permit voting for or against the

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1 proposition: "The constitutional amendment authorizing counties  
2 by majority vote of the qualified voters of the county to adopt a  
3 county home-rule charter."